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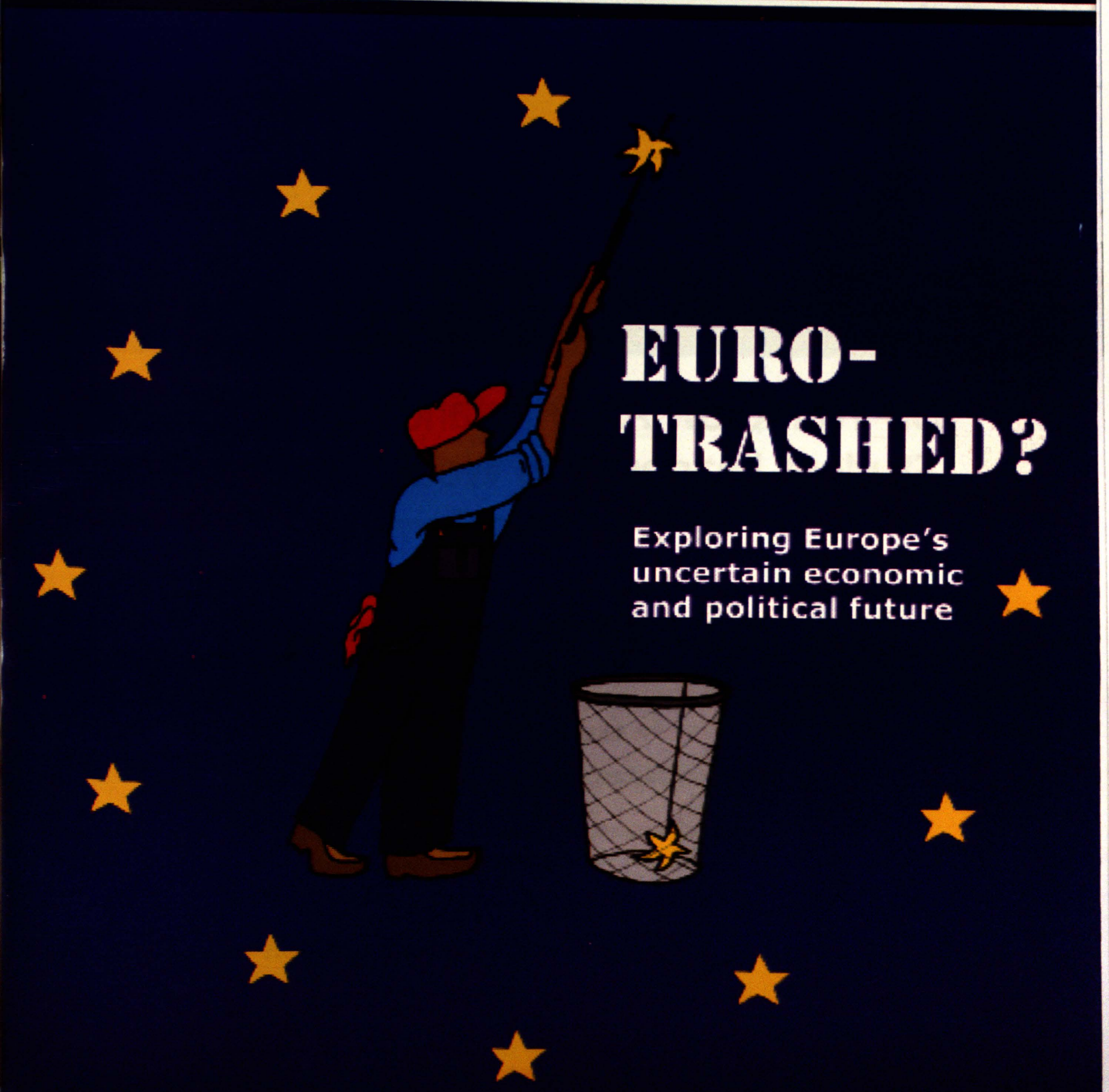
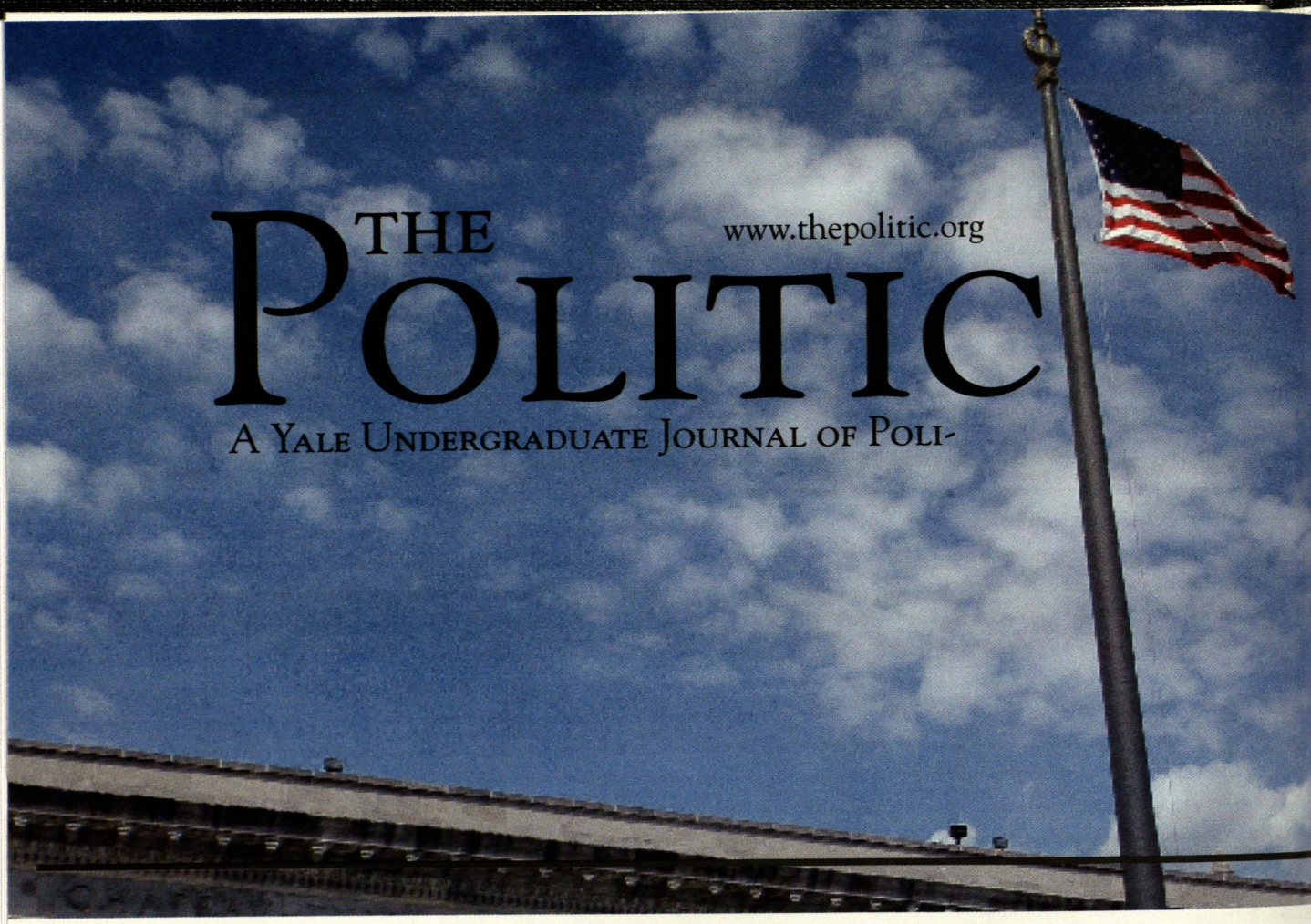


EURO-TRASHED?

Exploring Europe's uncertain economic and political future



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FEATURES

NATIONAL

INTERNATIONAL

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The Politic
P.O. Box 201452
New Haven, CT 06520-1452

Spring 2010

Dear Reader,

The ancient Greek historian Thucydides wrote: "War is a violent teacher." Almost 2,500 years later, the two world wars of the twentieth century ravaged Europe in merely three decades' time. From the rubble emerged a generation of Europeans who believed they had finally learned war's cruel lessons, and that power politics had to be cast aside in favor of an entirely new international architecture. For the past half-century, Europeanists have identified the Continent's salvation in national integration. On its website the European Union claims to be a "unique economic and political partnership" that aims at "peace, prosperity and freedom for its 498 million citizens—in a fairer, safer world." This ideal has resonated with many in Europe and around the world, who have touted the EU as a model to be followed.

After World War II, most European nations turned away from militarism in favor of a focus on economic development. As the nations one-by-one outsourced their major security concerns to the United States and NATO, it became clear that post-war Europe would seek international influence in the power of the purse. With the end of the Cold War and the signing of the Treaty of Maastricht in the early 1990s, the Europeanists' conception seemed to be coming to fruition. Economic competition would supplant military competition on the center stage of international politics, and the European Union would lead the world into a far more peaceful future. This has been the Europeanist paradigm for the past twenty years. But recent upheavals have filled even the most optimistic Europeanists with doubts.

The European Union's key problem is common to all supranational entities: where does national sovereignty end and the organization's begin? What has long been a theoretical quandary was made actual by Greece's debt crisis. With a budget deficit of 12.7% of GDP, Greece has called on its fellow EU member-states for an emergency bailout. As other EU nations struggle with financial woes of their own, it is clear that the Union's more solvent nations—namely Germany and France—will have to shoulder the lion's share of any aid package. Unsurprisingly, many Germans and Frenchmen are uneasy with the situation and what it might mean for the future. Would a Greek bailout create a "bailout culture," in which other small EU member-states believe that financial irresponsibility carries no significant penalties? Could it create a domino effect, with Italy, Portugal, Ireland, Spain, and maybe others demanding bailouts?

Such fears have led banks such as Morgan Stanley to predict that Germany might pull out of the eurozone, striking a deathblow to the Europeanist dream. Greece meanwhile has tried to sell itself as an "emerging market" and entered talks with the International Monetary Fund (IMF). In the midst of all this tumult, a recent Newsweek article declared, "Western financial supremacy is hardly the natural order of things."

The problem of national and organizational sovereignty is not confined to economics. The appointment of Britain's Catherine Ashton as EU High Representative for Foreign Affairs and Security Policy signaled Europeanist efforts at a unified EU foreign policy. Many Europeans, concerned with the Continent's waning power, believe that the only way for Europe to retain its global influence is to operate as a unit in international affairs. But it is hard for Poland, for example, with its historical suspicion of Russia, to agree to the same policy as Germany, which covets Russia's vast energy resources. It is inescapable situations like this one that make formulating a truly unified EU foreign policy seem impossible.

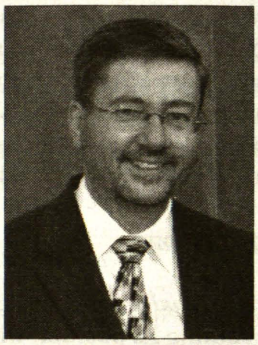
In the present issue of The Politic, we attempt to untangle some of these complexities and examine closely Europe's predicaments. Daniel Hamilton, Director of the Center for Transatlantic Relations at the Paul H. Nitze School of Advanced International Studies, discusses the big picture in Europe as well as the EU's relationship with the United States. David Cameron, the Director of the Yale Program in European Union Studies, offers his take on the EU's financial problems. Finally, two Yale College students, Andrew Feldman and Thomas König, write on EU foreign policy and the potential consequences of the Greek crisis, respectively.

Otto von Bismarck, one of Europe's handful of erstwhile international architects, once said: "As long as he lives the statesmen is always unprepared." While it would be foolish for us to think that this issue of the The Politic could fully prepare its readers for Europe's uncertain future, we hope that it sheds light on existing problems and stimulates new questions about the long-term development of the international system.

Edward Fishman and Mathew Andrews

The Future of Transatlantic Power

An Interview with Daniel Hamilton



Conducted by Liv Dowling

Dr. Daniel Hamilton is the Richard von Weizsäcker Professor and Director of the Center for Transatlantic Relations at the Paul H. Nitze School of Advanced International Studies (SAIS), Johns Hopkins University. He also serves as Executive Director of the American Consortium for EU Studies and the coordinator of the "Enabling Technologies Coalition" initiated by Microsoft. In addition, Hamilton has held a variety of senior positions in the U.S. Department of State, including Deputy Assistant Secretary for European Affairs.

Crises and Challenges

The EU recently put together a bailout plan for the Greek government that included $40 billion in aid. With possible rescue lines being considered for Portugal, Ireland, and Spain, the European Commission is focusing on how to ensure that these situations do not happen again. Olli Rehn, the European commissioner for Economic and Monetary Affairs, has suggested the creation of a new monetary fund, imposing sanctions or withholding subsidies on rule-breaking member states. Do you agree with such efforts at economic discipline and regulation?

This crisis has made it clear that the eurozone has yet to develop appropriate mechanisms to deal with member states that are in this type of situation. If you compare it to the United States, California has been in some deficit trouble itself, and yet it cannot default. There are mechanisms within the United States as a country that would start to work with California to get it out of its situation. The eurozone doesn't have that because it is not a country, and when it was created, these types of emergency mechanisms were not put in place. So the countries that are in the eurozone now are trying to come to grips with that. A bailout is one of those steps, but they all have to address what mechanisms they need to develop so this sort of thing doesn't happen again.

> *"This crisis has made it clear that the eurozone has yet to develop appropriate mechanisms to deal with member states [in financial crises]"*

I think the idea of having a European Monetary Fund is an interesting concept. The Europeans are concerned that if the International Monetary Fund (IMF) gets involved, it will set a precedent. The IMF is supposed to deal more with developing countries, and now they are coming to the developed part of the world. The message this sends, over time, is not one of confidence, and of course that is what the European monetary zone wants to project: stability and confidence. The Europeans could arrange their own fund to help themselves with these issues--this the kind of mechanism that I am talking about.

With the growing need for reform, how do you see the balance between the strong EU economies like France and Germany and the more economically vulnerable countries playing out? Does European unity depend on whether these larger economic states are willing to buy into the EU economic model? Or will public opinion in these countries turn against the EU?

There is certainly a temptation or possibility that public opinion in a country like Germany could turn against deeper European integration. But, since World War II, the way Germany has come back into the community of nations is that firm commitment to deeper European integration and a willingness to exchange a bit of its sovereignty for greater solidarity within Europe. The current financial crisis is a test to the European ideals, and it has been quite hard, as Germany itself is struggling with the economic crisis. The Germans are certainly weighing those trade-offs, but in the end I believe they will commit to European integration.

In December 2009 you testified before Congress on the implications of the Lisbon Treaty on the EU. Meanwhile, non-proliferation policy has recently been in the news with the U.S.-Russian nuclear arms reduction treaty.

Some in the Eastern portion of the EU, particularly the Czech Republic and Poland, worry about what these developments mean for national security, citing Russian aggression and neo-imperialism. How is the EU prepared to deal with such concerns from its Eastern members?

It is understandable that the countries in the former Soviet empire, if you will, given the history have some kind of concerns about Russian attentions. These are not merely unfounded notions. I think if you look at some of the activities Russia has engaged in, what you might call intimidation tactics on some smaller countries, there is some reason to be concerned: issues with energy supply, Russian planes flying over NATO-member territories, incidents with cyber-security, and of course the war with Georgia. Though Georgia is not in the EU or NATO, war on the European continent is something that people thought would disappear.

Olli Rehn, European Commissioner for Economic and Monetary Affairs, has proposed a series of reforms, including a new European Monetary Fund, to prevent future economic crises among EU member states. (TalkToEU/flickr)

On the other hand, I think there is an opportunity to say to the Russians that it is very important to be firm partners. The NATO debate, leading up to the NATO summit in Lisbon this fall, will revolve around the issue of how we reassure the new NATO members, who are also EU members, of our commitment to them at the same time that we reach out to Russia and try to build a relationship that moves beyond the Cold War. I think that most of the Eastern European countries welcome the issue of nuclear non-proliferation -- they simply want to know that the U.S. is consulting with them. The history, of course, tells [Eastern European nations] that big powers go over the heads of little powers, and I think the U.S. and the Obama Administration needs to be careful about not conveying that impression [in its dealings with Russia].

United States-European Union Relations

You recently stated in a March *Global Europe* article that the United States is slowly shifting its position with regards to EU-NATO relations. You quoted Secretary of State Hilary Clinton, who stated that the United States does not "see the EU as a competitor of NATO, but we see a strong Europe as an essential partner with NATO and with the United States." Why do you believe it is essential for the U.S. and Europe to pursue security cooperation outside of NATO?

NATO is very important, as it is our main transatlantic link in terms of security, but NATO cannot do everything. There are dimensions of security today that go beyond the traditional notions that NATO has been structured around. For instance, in the Balkans, NATO had to engage militarily, but real peace in the Balkans and putting that region in a direction toward stability came after NATO did its job. The U.S. and the European Union then started to work together with these countries to create the conditions for the Balkans' integration into the European mainstream. Accomplishing this requires other tools. NATO does not do the rule of law. NATO does not do good governance. It does not do human rights issues. There is a whole array of mechanisms that are more in the hands of the European Union that the U.S. should utilize to stabilize these areas.

If you look further away at Afghanistan, NATO is there with forces obviously, but NATO cannot solve the problems of Afghanistan on its own. Issues of stability and economic development require other instruments like police training and development aid, for instance. These types of resources are more in the hands of the European Union, or the United Nations. NATO needs to learn how to work with others, if you will, because the nature of security today is not just about the military. Regarding civilian crisis management, for instance, the European Union can deploy thousands of people: judges, agricultural experts, police trainers—all sorts of people on quick notice—a capacity that the United States does not have at all. The U.S. does not yet have the ability to deploy civilians rapidly. The State Department is trying to build up that

capacity, but it will take some time. So in the EU we have a necessary partner that is ready to work with us.

You recently commented in *Europe's World* that the Obama Administration's openness to increased cooperation with Europe is not as Euro-centric as many Europeans would like it to be. You concluded that the U.S. is currently open to increased coordination with Europe, and that the ball is now in Europe's court to respond. What do you see as some of the major long-term challenges to U.S.-EU relations?

If you look at the world we are facing today and the world we faced in the twentieth century, they are very different. The central challenge of American foreign policy in the twentieth century was how to stabilize Europe. Europe was in the cockpit of unprecedented disaster and human tragedy for much of the twentieth century—two world wars, the Cold War, and at the very end of the century another Balkan war. Each of those brought tremendous tragedy to the Continent, but also drew in Americans—including American troops—to try and pacify the Continent.

> *"The relationship across the Atlantic is indispensible. But in the world we have today, it is insufficient on its own to deal with the challenges we face"*

Today, wider Europe is still a turbulent area. But Western Europe, comprising most of the EU and NATO, is an area of relative stability. So, transatlantic relations are no longer about what we do about Europe, but rather about what we are prepared to do with each other in terms of issues that affect both of us, and for which neither of us will be sufficiently capable to deal with alone—violence and turbulence in the Middle East, climate change, civilian crisis management, development assistance. So the question is whether America has the patience to deal with an EU that is not quite the coherent partner that it potentially could be. And will the Europeans have the will to become the kind of partner that will work with the U.S. on a whole range of global issues?

I would argue that if the bond between the U.S. and Europe remains strong, rising powers will have greater incentive to join the rules-based international order that has brought historic levels of prosperity to many parts of the world. If those ties across the Atlantic are weak, then the incentive for rising powers is to challenge that order, which would create even more instability. I think the relationship across the Atlantic is indispensible. But in the world we have today, it is insufficient on its own to deal with the challenges we face.

The United States and the EU have both been victims of terrorism and attempted terrorist plots in recent years. You recently wrote in *Global Europe* that the Christmas Day terrorist plot underscored some key weaknesses in counter-terrorism coordination and cooperation between the EU and U.S. Could you expound on some of the needed areas of improvement?

Since September 11th, the United States has pursued this issue with an anti-terrorism mindset, using military force to approach it. The Europeans, who have lived with terrorism, they would say, for a long time, approach this more as a law enforcement issue. I do not think either of these outlooks is quite right. What we are finding, with the Christmas Day incident serving as a good example, is that American security is really linked across the Atlantic. Almost every terrorist incident that has affected the United States has had some link to Europe.

I think the Europeans are now acknowledging the potential of terrorist activities being planned in the United States to affect Europe. There have been recent examples of that as well. What I am arguing is that we need to think more broadly about what I call *resilience*, that is how our societies can respond to challenges ranging from not only armed attack, but cyber and energy security, bio-security, and terrorism.

If you look at what is happening with the volcanic ash that is spewing over Europe, the ripple effects have deeply impacted the supply chains that are so deeply integrated across the Atlantic. That example just underscores the deep integration that exists across the Atlantic, so we have to think more deeply about how we protect our societies together. This is what I mean when I say we must build a transatlantic resilience. My colleagues and I have proposed a new security guarantee across the Atlantic, which we call the Transatlantic Solidarity Pledge, that states if on either side of the Atlantic there is a man-made or natural disaster, each would come to the other's assistance. That is rather straight forward, and yet NATO doesn't stipulate for that, only "armed attacks." I think if you add a political statement that we would work together in this way, it would drive the respective bureaucracies to figure out mechanisms by which they can work together.

The Future of the European Union

Muslim immigration to Europe and anti-Islamic political parties, laws, and hate-crimes have been on the

rise in Western European nations. In your testimony to Congress, you stated that the EU and U.S. are united by strong commitments to "democracy, liberty, human rights, nondiscrimination and the rule of law…and an open door to those who choose to abide by these principles and add their strength to ours." What implications do you think such anti-Islamic trends have on Europe's security and international perceptions of Europe?

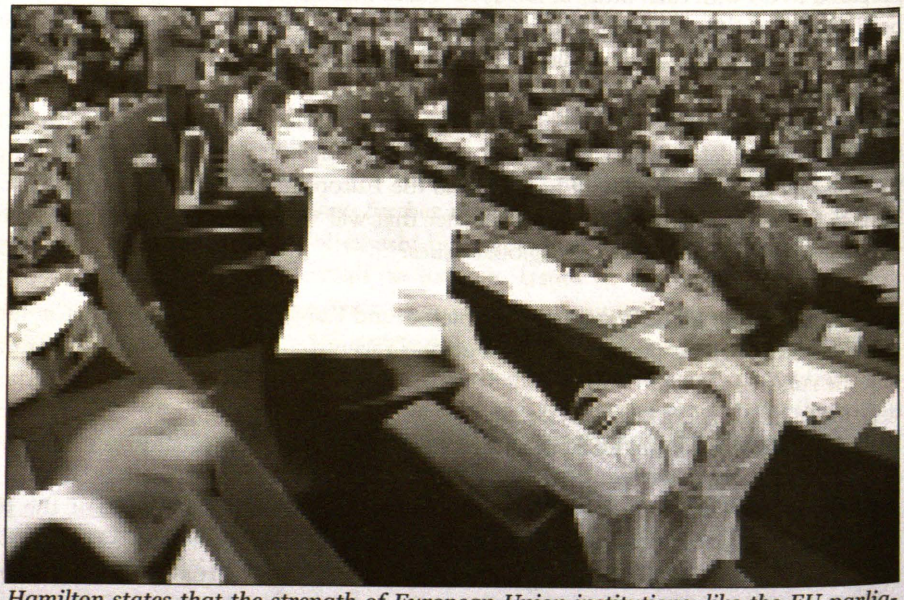
The challenge to some traditional European societies is the need to acknowledge they are becoming immigrant societies. For hundreds of years, Europe was the primary source of sending out immigrants to the rest of the world. Now that Europe is becoming a recipient continent for other parts of the world, this is changing perceptions of identity on the Continent. This is in contrast to the United States, which has always considered itself an immigrant society. These are different traditions that are rooted in centuries of history. How do we define what is European or American? These are tough issues with no clear solution. Banning minarets, for instance, is hard but even in this country people have said our president is un-American because his middle name is Hussein. There are these types of charges in free societies on both sides of the Atlantic.

Critics as ideologically diverse as Fareed Zakaria and Bruce Thornton have said that Europe is in a slow and steady decline economically, culturally, and geopolitically. They site such diverse factors as negative population growth, the loss of religious morality, and crippling government bureaucracies leading to less European influence in the world. How do you respond to such critics and how would you characterize European influence in the future?

This all depends on the Europeans. I think some of the charges are just wrong factually and the rest are projections of future trends. It is hard to predict trends as they can always be changed by actions today. I am a bit more cautious in being so wildly categorical about the types of issues Europeans face. If you consider the charge of a wildly out of control bureaucracy, look at the economic crisis. The fact is that European governments managed the crisis much better than the United States in terms of unemployment because they have social stabilizers in place. The human impact of the economic crisis was felt less there than here in the U.S.

The demographic challenge in Europe is a serious one. However, the trends are uneven with this issue too. There are some countries like France that have a positive growth rate for instance. So again, the demographic issue is not a categorical problem. The challenge here is whether Europe can maintain its innovation and productivity economically to deal with this challenge. Sometimes people just are not looking at the full picture. I am not saying Europe will continue to be just as influential as it is now—I have questions about political will, about the capacity of Europeans to really pull together in the ways they need to. But, I am not willing to make some wild projections and I think that is a more realistic assessment of where Europe is than some of the things you hear.

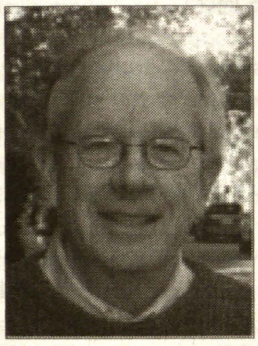
I lived in Berlin in 1989 when the Berlin Wall came down, and I can tell you two months beforehand nobody was saying that the continent of Europe was about to go through a fundamental earthquake. All the projections were about the Cold War continuing. Two generations of American and Europeans built their careers on the hard rock of that Wall, thinking it would never go away. Suddenly, peacefully, unexpectedly, one day it did. So I would be cautious about straight-line projections based on the kind of world we see today. The challenge is will we seize the moment to use this partnership so that it becomes truly global, or will we spend our time on diversions that distract us from the more serious challenges we face.



Hamilton states that the strength of European Union institutions, like the EU parliament pictured above, will determine whether the U.S. and EU can confront serious and commonly-held challenges in the future. (European Parliament/flickr)

Frontiers of Crisis Management

An Interview with David Cameron



Conducted by Deirdre Dlugoleski

David Cameron is a professor of Political Science at Yale and the Director of the Yale Program in European Union Studies. He has taught at Yale since 1975 and teaches courses on European politics and the European Union. He has written extensively about the impact of trade openness on government, the initiative to complete the internal market, the operation of the European Monetary System, the negotiation and implementation of Economic and Monetary Union, the enlargement of the EU, and the negotiation of the failed constitutional treaty and its successor, the Treaty of Lisbon.

Europe has recently found itself facing the question of whether or not to enact a bailout plan for the economy of Greece, which currently faces a debt of 300 billion euros. After weeks of indecision, last month the major players in the EU assembled a $40 billion rescue package for the Greek economy. This is a situation unlike anything the EU has ever had to consider. What caused this crisis?

This whole crisis was precipitated by an election in Greece last October, when the Panhellenic Socialist Movement (PASOK) party won the election. The new prime minister, George Papandreou, then stated that the previous Greek deficit of five percent in 2009 would be 13 percent by 2010. Well, that raised a big problem for various reasons. Greece has a very large amount of external debt, over 100 percent of GDP, on top of a huge amount of debt it has to roll over this year. So investors got very concerned, and the credit rating agencies downgraded its debt. The eurozone also got very concerned. Part of the agreement of participating in the eurozone is something called the Stability and Growth Pact, under which governments are committed to keeping their deficits under 3 percent. So you have Greece announcing, "Sorry, we were wrong, our deficit is not 5 percent of GDP (which is manageable and you can get down to 3 percent), but it is 13% of GDP." The Papandreou government said they would try to get down to 3% over the next three years and reduce the deficit this year from basically 12.7 to 8.7 percent of GDP by a series of budget cuts, spending cuts, tax increases, etc.

What ramifications has this had for other countries in Europe and the European Union as a whole?

This raises interesting problems both for Greece and the EU. On the Greek side, the government is actively trying to reduce the deficit – that means raising taxes and cutting spending. But Greece is in a recession right now. They have high unemployment (more than ten percent) and the growth rate is projected to be about -2 to -2.5 percent this year. This kind of policy, which you think of as a kind of a protracted austerity policy over the next three years, will only be amplified and toughened up by having the International Monetary Fund (IMF) participating in this. Greece will be in a situation where they, already in a recession, will have to lay off workers, cut wages and pensions, and raise taxes, etc. So it will have a really tough impact on Greece – and a very tough political impact, because this PASOK government is on the left. It has core constituencies in the public and private sector units, and their constituents have been out on the streets in the past several months on one strike after another. In fact, on one visit to the finance ministry, the IMF officials who were visiting could not go in because the employees were on strike. Recently, during the same week, the lawyers were on strike, the taxi drivers were on strike, as well as the big federations of public employees, who are going to be particularly hit by these layoffs. So it is very tough on Greece, and it means that they will probably be in recession for the next two or three years.

> *"[The financial crisis] is very tough on Greece, and it means that they will probably be in recession for the next two or three years"*

The Greek crisis has a peculiar, perverse effect on some of the other EU countries because it tells other countries, like Portugal, that they might be in trouble and that there is the possibility of a bailout. Does this in some perverse way reduce

the incentive of a government in Portugal, for example, to introduce the bitter medicine it might have to take given its deficit and its debt? Now the other big complication in this, of course, is how the EU deals with this issue. Basically over the past four months, the EU has been completely preoccupied by this crisis. The EU is a big trade bloc of some 500 million people and the idea that they have spent four months completely preoccupied over the question of whether Greece can raise twenty billion Euros in April and May is ridiculous. What it points to is the fact that the EU does not have any set routine, mechanism, or means of dealing with this kind of crisis on an ongoing basis, and so they have been sort of developing this in a very ad-hoc way.

Do you think the EU government has set a bad precedent with the bailout of Greece? What are some ways the EU might respond to future financial crises among member states?

Well, I think that the EU has to figure out the lessons of this crisis, and it has to develop a way of dealing with these crises because I think they will occur in the future. There is no reason to think they will not occur in the future. There are some ideas that have come up for how the EU might begin to deal with this, but it is not clear that they have the collective will power to do it. Now what are some of the proposals? One is that they need a much tougher Stability and Growth Pact that would monitor countries' fiscal policies much more closely, exercising control, to some extent, over fiscal policy before it is enacted by the member states. One of the questions is how did Greece get away with saying it only had a 5 percent deficit when it was actually 13 percent? How do we prevent that in the future? Well, you have to have better surveillance and monitoring of fiscal policy -- you have to have more sanctions in terms of what the EU can do if a country does violate the Stability and Growth Pact.

A secondary proposal involves how to arrange emergency liquidity support with strict conditions, as you would get with an IMF loan. Another ideas that has come up is a European Monetary Fund, an EMF, to replicate what the IMF does. It would function within the eurozone and would actually be part of the European Union. It would be another institution within the EU that would closely monitor when governments were violating the rules and terms of deficits, and would be able to provide assistance with strict conditions. For this sort of proposal, you would need a new treaty. You'd have to have a new treaty. And the EU just went through basically ten years of trying to get a constitutional treaty until they got a sort of plan B, the Lisbon Treaty. So how do you deal with that? I think the more fundamental problem is would a possible EMF apply its rules conditionality in the same way as the IMF? If the IMF goes into Ukraine, and it does not like what Ukraine is doing, it can say, "Okay you are not getting the loan until you do this." Could the EMF do that? There is almost a conflict of interest in applying conditionality to a member state that is sitting at a table of equals.

Europe is already somewhat split between two camps: those in favor of increasing the scope and potency of the European Union and those who tend to favor the sovereignty of individual member states. What effect would these proposed financial reforms have on public opinion in the EU? Could it possibly exacerbate tensions already evident in European politics?

General strikes paralyzed Greece in February, as public and private sector workers protested announced austerity measures by the POSAK government and a wave of sterner measures by the European Union. Cameron states that such measures are necessary for any sort of stability to return to the eurozone financial system. (oneiros/flickr)

There is a common perception that Europe is already too intrusive, that it has already overridden national authority and taken on powers that are excessive. There is also a perception among many people in Europe of a democratic deficit, in the sense that decisions are made at the supranational level, at the European level, and are

not really directly influenced by the citizens in any significant way. They elect the members of the European Parliament, but those elections are conducted on the basis of national parties campaigning about national issues. These European parliamentarians do not have much effect anyway, because policy is really made by the Council of Ministers and the European Commission. The Council represents the governments of the EU, and the Commission is appointed, as it is supposed to be a body independent of government. So there is a sense that a lot of policy activity has shifted to the supranational level, and there is not a commensurate degree of accountability, proximity, or transparency.

"There is a common perception that Europe is already too intrusive, that it has already overridden national authority and taken on powers that are excessive"

My sense is that if a treaty with a greater degree of budgetary discipline in the form of an improved Stability and Growth Pact, an EMF, and provisions for economic governance were put to the people, it would fail. So you have a real problem in the EU. The EU asks itself, "okay, if we all know that it would fail, can we sort of approximate these reforms through non-treaty improvements?" That is precisely the way the EU works: it tinkers with the institutions. So the EU will try to improve the Stability and Growth Pact short of any provisions that would require treaty amendments, which would have to be put to the 27 member states. So the question is will the EU develop the capacity to deal with these sorts of crises? Will they develop the ability to coordinate economic policies? It is likely the case that they will not develop the institutional capacity, and so the question becomes will the EU simply build on the Greek experience and respond a little more promptly, a little more effectively the next time.

The EU has pointed out before that the incentive of membership often leads countries to enact internal improvements that they may not have otherwise enacted. Serbia, for example, began to hunt down war criminals in the hopes of a Stabilization and Association Agreement. Now that it is looking unlikely that the EU will be able to take on many more members in the short-term, how might this affect the policies of countries like Serbia? Will they continue with their improvements and reforms?

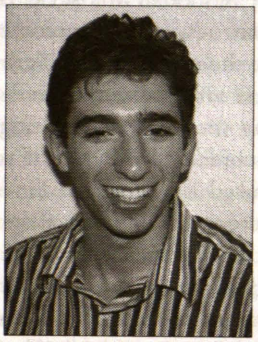
Since 2000, the EU has had in place something called the Stabilization and Association process for the western Balkans. The Stabilization and Association process is a means of preparing the countries of the western Balkans for eventual membership in the EU. They have to negotiate a Stabilization and Association Agreement with the potential member states, and once that is done these states might be offered to apply for membership. Once they apply, they may be granted candidate status which may lead to negotiations for accession into the EU. The Serbian case is especially interesting because there are still parties that think highly of Slobodan Milosevic. But there are now, in the government and in the presidency of Serbia, figures who are committed to joining the EU and creating a democratic polity. In fact, if you measured by Freedom House data the extent of political rights and civil liberties over the last decade, there have been very substantial increases in Serbia, Bosnia, Croatia, and Albania. So the Western Balkan states are clearly moving toward membership.

How do you see this economic crisis affecting the already tense relationship between the EU and Russia? The financial crisis has hit both the EU and Russia hard, but Europe is also hugely dependent on Russian gas and oil.

I do not think the current developments directly affect Russia, but I think there is a fundamental geopolitical tension between the EU and Russia. The real concern among the Europeans is that Russia is very aware of its geopolitical interests, and it is very active in pursuing these interests as it defines them, especially in the near abroad, whether that means engagement with Georgia, hacking into government computers in Estonia, cutting off oil to the only existing refinery in Lithuania, or raising oil and gas prices for Ukraine. Russia has been taking these sorts of actions very effectively, and it is a real problem that the EU does not really have a comparable amount of leverage to deal with. There is a clear political problem that is of great concern to a lot of EU members states: that Russia is not a democratic polity, and did not make, as everyone assumed it would make in the early years of the Yeltsin presidency, a transition to democratic politics. It has parties that run in elections and holds elections regularly. But, this is a very limited form of electoral politics, and not by any definition a democracy. Especially under Putin, the Russian state has become increasingly authoritarian. For some in the EU, this is not a problem, but an inconvenience. They are only concerned about oil and gas. But for other states in the EU, especially some of the northern European states that take democracy very seriously, this is a hugely important issue.

A Cast of Many Characters

The European Union on the World Stage after Lisbon



By Andrew Feldman

Andrew Feldman is a junior Political Science and International Studies major in Morse College. In the summer of 2009, he spent two months studying European Parliament elections while traveling in Western Europe.

In the past decade, the European Union has steadily increased its presence in international affairs. Its humanitarian aid office doled out billions of Euros in aid, and civilian and military officers have been deployed under the EU flag in more than twenty countries. Its foreign policy representative, Javier Solana, became a well-known face in international circles, and the EU parliament has become a strong advocate for human rights and democracy around the world.

But for all the EU's progress, its efforts have been hampered by the excessive bureaucracy and disjointed nature of much of the EU's operations. Pre-Lisbon Treaty, there was a Commissioner for External Relations in addition to the High Representative. Likewise, the European Commission and the Council of the European Union had their own external relations departments. The whole apparatus lacked the centralized planning necessary for the EU to be en effective actor in the fast-paced and ruthless world of international relations.

> *"Despite the shared geography, culture, and history of the European nations, their geopolitical interests often fail to line up"*

As of December 2009, the EU now has one person to represent its half-billion citizens in foreign relations, and that woman is Catherine Ashton. In her capacity as the newly-appointed High Representative for Foreign Affairs and Security Policy, she is the coordinator of the EU's joint foreign policy initiatives and foreign delegations, overseeing the wide variety of ways in which the EU interacts with the rest of the world.

The goal of these changes enacted by the Lisbon Treaty was to improve EU foreign policy decision-making and empower the EU on the world stage. By consolidating the somewhat overlapping offices of the Commissioner and High Representative into one High Representatives who is also a Vice President of the Commission, the authors of the Lisbon Treaty hoped to make it easier for the EU to speak with one voice. Moreover, by converting Commission Delegations into EU embassies and merging the Council and Commission's external relations departments, the EU will have more coherent policies and thus a more coordinated and forceful presence abroad.

Implementation of this long-delayed treaty, however, got off to an inauspicious start with the selection of Ashton, a low profile and relatively inexperienced British politician, as the new High Representative. In doing so, the European Council, composed of the various heads of state of the EU nations, made it clear that they did not want to run the risk of being overshadowed by a prominent EU figure. The seriousness with which Europeans themselves regard the position will have a significant bearing on how relevant the position of High Representative turns out to be.

Currently, EU is working out the details of implementing the Lisbon Treaty's foreign policy provisions. From the beginning, the details of how the new Foreign Service corps and the External Action Service will be implemented have been subject to the inevitable turf war between the EU Parliament, Council, and Commission, with the distrust and maneuvering among member states only adding to the confusion. The European Commission is worried that the Council will gain

Catherine Ashton, a relatively unknown British politician, faces the task of giving meaning and relevancy to the newly-created position of High Representative of the Union for Foreign Affairs and Security Policy. (European Parliament/flickr)

control over the big-budget development funds, while the Parliament feels left out of the process. On top of this, the number of British members on Ashton's staff has irked other large European nations already suspicious of British motivations in EU affairs.

But the real reason why it is unlikely that Lisbon will make significant changes to the role the EU plays in international relations is that any common action undertaken by the foreign policy areas of the EU must be based on a consensus among the member states. Heads of delegations and High Representative Ashton, for example, may speak for the Union as a whole, but only when a position has been agreed upon by the 27 member states. The treaty makes it easy for the Union to enact common policies in areas where the member states agree, but leaves open the question of how often such agreement will take place.

The disconnect between stated desires to improve the strength and potency of the EU and the incremental institutional changes in the Lisbon Treaty is not unique to foreign policy. What has changed about the EU since its enactment? The European Council elects a president, the EU's two courts have been renamed and restructured, the Parliament has taken control over a few more areas of policy, and the Council of Ministers uses a form of majority voting in more situations. National parliaments are given more time to scrutinize EU laws, and citizens can force the Commission to examine an issue if they can gather a million signatures.

Mainly, though, these are changes that seem to make the raucous debates that occurred across Europe over ratification look vastly out of proportion with the actual details of the treaty. Many of the changes are merely to the names or legal standings of various EU bodies, and the rest are either small expansions of current policy or organizational modifications that may or may not significantly affect the EU's standing. The controversy over the Lisbon Treaty was not a mistake or even misinformed, but rather reflected the uncertainty among European leaders over what would come next.

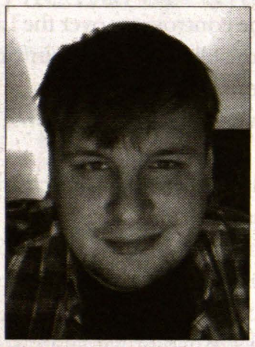
Essentially, with the passage of the Lisbon Treaty, the EU has finished most of the work it took on to complete its core, and largely economic, goals: a common financial market with a common currency and common regulations. These projects had broad support from European leaders and the European people and have bound Europe tightly together in a web of commerce. Now, however, there is little agreement on what the future of the EU should look like, or even if its structure needs further change.

There is also little agreement in many areas of foreign policy. Despite the shared geography, culture, and history of the European nations, their geopolitical interests often fail to line up. One need not look further back in history than to the Iraq War to witness disagreements on fundamental questions of foreign affairs. Today, Germany is building new energy links to Russia, and France sells the former superpower advanced weaponry, which has made Eastern European countries in the EU increasingly nervous. For all the talk of European solidarity, responsibility for the security of EU citizens clearly rests with individual states, and these states frequently differ in their decisions on how to achieve this essential goal.

The effects of the these changes cannot yet be judged, and incidents such as the perceived mishandling of the Haiti earthquake and the replacement of Ashton's press officer after just a few months, have made clear that Ashton and her staff are still adjusting and defining their new role. Even after these growing pains subside, such reorganization will only provide incremental improvements to the EU's foreign policy. The Lisbon Treaty was never going to transform the EU into the superpower some wished it would become. Only when member states see a clear advantage and incentive to conducting a common foreign policy will they fully empower an EU official to speak for all 27 nations on the matters most jealously and sacredly reserved for the nation-state.

The Greek Tragedy Revisited

The Value of the Financial Crisis in Greece for European Solidarity



By Thomas König

Thomas König is a senior in Pierson College originally from Germany. He will begin his Master's degree in International Studies & Diplomacy at the School of Oriental and African Studies (SOAS) in London this fall. His academic interests include East Asian security relations, European integration, and European foreign relations.

"I am not going to lie, it was a little eerie to walk through the streets: helicopters were hovering menacingly over the downtown area, the streets were blocked, the police were everywhere. I swallowed hard, settled back into my chair and continued reading. I walked down one of the posh streets and every single shop window had been bashed in, cars were burning, banks were completely torn apart..."

Unfortunately, I did not come across this dystopian narrative while skimming through a George Orwell, Ray Bradbury, or Aldous Huxley work. No, this particular gem was given by one of my friends who lived in Athens at the peak of civil unrest and public vandalism in Greece. Given the roller coaster ride that has been the Greek economy in the past few months, Athenians, and all Greeks, certainly have many reasons for protest.

> *"Greece [is now] the Bermuda Triangle of foreign investment"*

Greece is in crisis. The country's national debt at €300 billion is larger than the country's economy, which translates into an annual budget deficit of roughly 13 percent. The Greek government is struggling with the consequences of decades of unrestrained spending, cheap lending, and misleading government statistics that were designed to appease the EU's economic oversight committee. When the global economic crisis hit in mid-2008, Greece was forced to reveal what had previously only been talked about in hushed voices but feared throughout the entire Eurozone: Greece was bankrupt.

Moreover, Greece was struggling with an annual budget deficit almost 10 percent larger than the 3 percent mandated by the EU Stability and Growth Pact. To make matters worse, Greece's credit rating (the confidence in the ability to repay its debt) was downgraded to one of the lowest within the Eurozone. This fact made Greece the Bermuda Triangle of foreign investment, which will likely doom the nation's hopes of quickly repaying its debt and regaining financial stability.

Due to Greece's extreme financial situation, the EU has required the birthplace of Homer and Socrates to limit its spending immediately and to lower the annual budget deficit to under 3% by 2012, an utterly utopian expectation. Practices of overspending and questionable budget management are certainly not easily overcome within a year or two. The Greek prime minster George Papandreou admitted that the basic problem with the Greek financial system is "systemic corruption." While the EU understandably expects quick changes, even the most optimistic economists would deem this feat impossible. Try balancing your checkbook with growing personal debt, bribes, and a tradition of fiscal irresponsibility

Shortly after Papandreou announced the implementation of new measures aimed at fiscal austerity, which included an increase of the retirement age and the freezing of salaries in the public sector, the EU Commissioner for Economic and Monetary Affairs, Joaquín Alumnia, stressed that these efforts were "ambitious but achievable," and absolutely necessary to alleviate the situation in Greece. Yet, at the same time, Alumnia neglected to mention previous failures to oversee Greece's budget management program since the introduction of the Euro in 2001.

As the German saying goes: *Gefahr erkannt, Gefahr gebannt* (A danger foreseen is a danger avoided). Because Greece

is yet another victim of a global financial crisis characterized by overspending and unwise lending practices, some have argued, Greece urgently needs to institute sensible government spending and a strict adherence to regulation, helping it emerge from the crisis even stronger.

This characterization of the problem, however, is false. The Greek case is not simply an instance of excessive government spending, a lack of accountability, and excessive government involvement. There is no easy-fix for this crisis. Mere oversight is simply not enough. If the Greek system, after years of following its old policies, is ultimately weakened by corruption and inundated with debt, it is of paramount importance to change the current system in place. Papandreou's austerity measures are a short-term fix for a long-term problem. Greece can receive aid from the euro zone in this time of crisis, but weaker states within the EU require institutions for stability that ensure such situations do not happen again.

German Finance Minister, Wolfgang Schäuble, has emerged as a key player in the future economic structure of the European Union. After the Greek financial crisis, Schäuble has pushed for reforms including the creation of a European Monetary Fund and formal consequences for EU nations that fail to adhere to economic regulation. (Bertelsmann Stiftung/flickr)

In fact, the Greek crisis may become a true test of the strengths and weaknesses of the European system as a whole. When the crisis in Greece first began in early 2010, my brother quite indignantly told me that the EU's "latest scheme" had financially stable Germany stepping in to help Greece.

"Why should we be required to help?" he asked. "It is a sovereign nation's responsibility not to overspend; we have nothing to do with it." My brother echoed what many Germans were thinking, including the German Minister of Finance, Wolfgang Schäuble, who stated that the principle of a common currency was based on the agreement that every member would adhere to the rules of the game. If one nation fails to do so, the responsibility rests on that country alone.

Ideally, the validity of these statements cannot be denied. However, I cannot agree with the Finance Minister on all accounts. By admitting Greece into the EU, all member states have assented to the financial and moral obligation to support other member states in times of crisis. While the Greeks rage through the streets of Athens and vandalize their city out of frustration with their government, the EU needs to realize that while civil unrest may be the Greek government's problem, its financial problems are now European problems.

The EU was founded on the principle of establishing a system of standardized laws that would apply to all member states equally, in good and in bad times. The current crisis screams for the reaffirmation of the principle of "economic interdependence." Greeks are using the same currency as the French, while the Germans are dropping the same coins into vending machines as the Portuguese -- a financial meltdown in Greece and consequent devaluation of the Euro will affect all Europeans in much the same way. The inescapability of the EU's economic interdependence is thus undeniable. In such a scenario, what are the EU's options?

One option that has been on the table ever since the crisis in Greece unfolded was a direct money infusion from the International Monetary Fund (IMF). An IMF loan could partially neutralize much of Greece's enormous deficit, as IMF loans primarily function to bailout sovereign states that can no longer fend for themselves, a description that certainly applies to Greece. The country is expected to accept an IMF loan of about $20 billion at a lower interest rate than the $40 billion loan given to Greece directly by the EU.

Yet money infusions from the IMF and EU may have serious ramifications for Europe's future. Concerning IMF loans, for example, an immediate bailout may discourage further government spending cuts in Greece. Moreover, such loans could also drastically weaken the validity of the EU Stability and Growth Pact as the Greek case would demonstrate how

failing to adhere to EU law would carry little to no serious consequences. As Lorenzo Bini Smaghi, a member of the European Central Bank executive board, told a leading German newspaper, "Should the IMF respond, the euro would seem to be only able to survive with the help of an international organization."

During this delicate time in the world economy, questioning the strength of the euro is something the EU desperately wants to avoid. In the same way, a "truly European" bailout funded by other EU member states would be problematic too. As stipulated in Article 122 of the infamous Lisbon Treaty, only natural disasters or "exceptional occurrences beyond [the country's] control" should warrant monetary support from other member states. In fact, according to the British think tank Open Europe, any European bailout to assist Greece would be downright illegal.

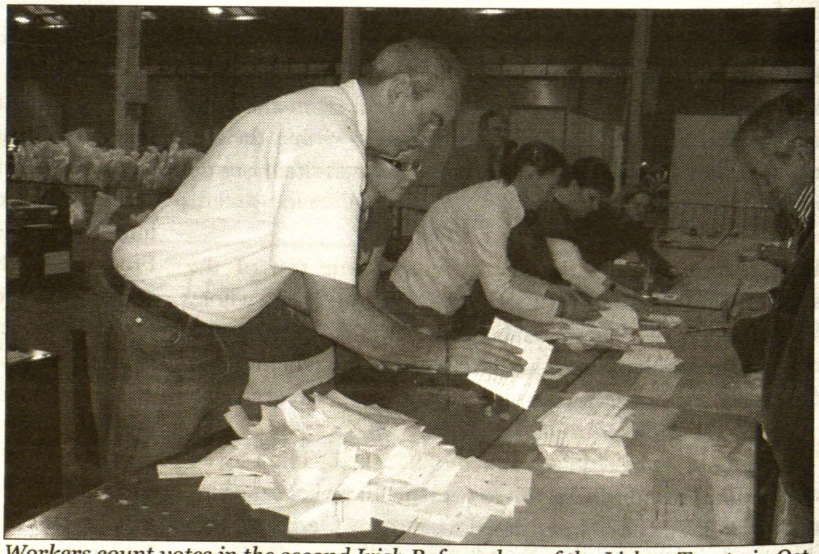
But as British politician and international diplomat Paddy Ashdown famously proclaimed, "politics is compromise." Recognizing this, on March 26 the leaders of the eurozone joined hands with the IMF and promised to jointly bailout Greece should the debt intensify. While this solution was designed only for emergency situations, German Chancellor Angela Merkel confirmed that the joint EU-IMF bailout program is a clear first step towards reform. Whether you agree with the Greek bailout or not, the Greek financial crisis undoubtedly showed how flawed the current European system is. One clear lesson to be learned from the Greek crisis is that Greece did not ignore political constructs, such as the Growth and Stability Pact, because of flawed design, but because of a blatant lack of enforcement. Enforcement is key. Bailouts and stabilizing the euro aside, it is important to find a viable long-term solution that will prevent and avoid future crises.

Schäuble may actually provide one possible long-term solution. Backed by Germany and France, Schäuble is seeking to create a European Monetary Fund (EMF) as a counterpart to the IMF that would enforce the rules of the Growth and Stability Pact. While the EMF is still in the early stages of development, and thus would be unable to settle the Greek crisis in time, the vision behind the EMF would be to bailout euro zone countries in return for granting oversight access of the troubled country's finances.

The EMF reflects the central tension in EU economic relations today: oversight and control that ultimately helps stabilize the eurozone comes at the expense of individual member states' sovereignty. Moreover, the Greek case clearly underscores the future direction of the EU of less sovereignty and more oversight.

We should not belittle, however, the legitimate fear of sovereign European states of losing their individuality in the face of European unity. Ultimately, however, the creation of a heavily regulated oversight mechanism with the ability to enforce its own rules will prevent future crisis like the one in Greece. The gradual loss of sovereignty, the elephant in the room since the ratification of the Treaties of Rome in 1958, is a political reality just like the existence of a single European market economy. The sooner Europe accepts its unique position within the international community (including some of the uncomfortable compromises that entails), the sooner Europe will be able to move forward to the shared benefit of all states involved.

The current need for reform is certainly not helped, however, by the latest adoption of a long overhaul of the EU constitution via the Lisbon Treaty. Reform-fatigue amongst Europeans might slow the efforts to institute an EMF, but ultimately the Greek case speaks to how desperately the eurozone needs a stronger base for fiscal and political unity. While I am sure that many will not agree with me on this point, if the Greek crisis helps expedite the process toward creating a more stable and fiscally responsible Europe, then Greece may actually prove to be a savior of, and not a hindrance to, the European Union.



Workers count votes in the second Irish Referendum of the Lisbon Treaty in Oct. 2009. König expresses concern that reform-fatigue among EU citizens may slow down much needed financial reform. (Foreign and Commonwealth Office/flickr)

Crisis, But No Command

An Insider's Account

By John Yoo

John Yoo served as a deputy assistant attorney general in the Office of Legal Counsel of the U.S. Department of Justice from 2001-2003, where he worked on issues involving foreign affairs, national security, and the separation of powers. Mr. Yoo is currently a professor of law at the University of California at Berkeley School of Law (Boalt Hall), where he has taught since 1993.

The Framers believed the chief executive's powers would expand broadly to meet external challenges while playing a modest role at home. In Democracy in America, Alexis de Tocqueville thus observed that the presidency was a relatively weak office because the armed forces were tiny, the oceans protected the nation from Europe, and no natural enemies sat along its borders. "The President of the United States possesses almost royal prerogatives, which he has no opportunity of exercising; and the privileges that he can at present use are very circumscribed. The laws allow him to be strong, but circumstances keep him weak." But that would change as America grew, Tocqueville predicted. It is in foreign relations "that the executive power of a nation finds occasion to exert its skill and its strength." If the national security of the country "were perpetually threatened, if its chief interests were in daily connection with those of other powerful nations," Tocqueville continued, "the executive government would assume an increased importance in proportion to the measures expected of it and to those which it would execute." The more unconventional and unprecedented the foreign challenge, the more our constitutional system demands the flexibility, decisiveness, and speed that only the executive branch possesses.

> *"The more unconventional and unprecedented the foreign challenge, the more our constitutional system demands the flexibility, decisiveness, and speed that only the executive branch possesses."*

President Obama has turned the constitutional functions of the presidency upside down. He believes the president should lead a revolution in society, the economy, and the political system, but defer on national security and foreign policy to the other branches of government. Obama wants the executive to be a domestic strongman who can speedily dismiss opposition to his health care and economic ambitions. Yet his decisions to try Khalid Sheikh Mohammed (KSM) in federal court and to place the Christmas bomber in FBI custody represent an unprecedented effort to leave critical wartime decisions—here, final decisions on the disposition of enemy combatants—up to the other branches.

During his first week as Commander in Chief, Obama ordered the closure of detention facilities at Guantanamo Bay and terminated the CIA's special authority to question terrorists using tough interrogation methods that critics have claimed amounts to torture. He suspended the military commissions that were in the middle of the trials of al Qaeda leaders for war crimes. His Department of Justice, led by Attorney General Eric Holder, decided it would no longer use the phrase "enemy combatant" to describe terrorists nor describe the struggle with al Qaeda as a "war." Obama released several secret Bush legal memos, some of which I worked on, regarding detention and interrogation policy, and went head-to-head on May 21, 2009, in dueling speeches with former Vice President Dick Cheney over whether the Bush administration policies on interrogation had proven effective.

While these actions certainly pleased the left wing of the Democratic Party, they also threatened to handicap our intelligence agencies from preventing future terrorist attacks. In issuing these executive orders, Obama favored the law enforcement approach to fighting terrorism that prevailed before September 11, 2001. He also dried up the most valu-

able sources of intelligence on al Qaeda, which, according to former CIA Director Michael Hayden, has come largely out of the tough interrogation of high-level operatives.

The question President Obama should have asked right after the inaugural parade was: "What will happen after we capture the next KSM or Abu Zubaydah?" More careful review of terrorism policy would have made clear that the civilian law enforcement system cannot prevent terrorist attacks. What is needed are the tools to gain vital intelligence, which is why, under President Bush, the CIA could hold and interrogate high-value al Qaeda leaders. On the advice of his intelligence advisers, the President could authorize coercive interrogation methods like those used by Israel and Great Britain in their anti-terrorism campaigns. (He could even authorize waterboarding, which Bush did three times in the years after 9/11.)

Protesters gather in front of the White House on Obama's 101st day as president (April 30, 2009) to demand the closure of Guantanamo Bay. Yoo argues that such measures might appease the left wing of the Democratic Party, they threaten to handicap our intelligence agencies in the War on Terror. (@mjb/Flickcc)

President Obama's stay of all military commission trials, and the transfer to the criminal justice system of the only al Qaeda operative held by the military on U.S. soil, might presage the shuttering of commissions entirely in favor of the exclusive use of U.S. civilian courts. Military commission trials have been used in most American wars, and their procedures are designed to protect intelligence sources and methods from revelation in open court. Obama has ordered that al Qaeda leaders be protected from "outrages on personal dignity" and "humiliating and degrading treatment" in accordance with the Geneva Conventions. The Bush administration classified terrorists—well supported by legal and historical precedent—like pirates: illegal combatants who do not fight on behalf of a nation and refuse to obey the laws of war.

The CIA must now conduct interrogations according to the rules of the Army Field Manual, which prohibits coercive techniques, threats and promises, and the good-cop, bad-cop routines used in police stations throughout America. President Bush already banned torture or physical abuse in 2002, but President Obama's new order amounts to requiring—on penalty of prosecution—that CIA interrogators be polite. Coercive measures are unwisely banned with no exceptions, regardless of the danger confronting the country.

Eliminating the Bush system entirely will mean that we will get little timely information from captured al Qaeda terrorists. Every prisoner will have the right to a lawyer (which they will surely demand), the right to remain silent, and the right to a speedy trial. The first thing any lawyer will do is tell his clients to shut up. The KSMs or Abu Zubaydahs of the future will not respond to verbal questioning or trickery—which is precisely why the Bush administration felt compelled to use more coercive measures in the first place. Our soldiers and agents in the field will have to run more risks to secure physical evidence at the point of capture and maintain a chain of custody that will stand up to the standards of a civilian court.

Relying on the civilian justice system not only robs us of the most effective intelligence tool to avert future attacks, it also provides an opportunity for our enemies to obtain intelligence on us. If terrorists are now to be treated as ordinary criminals, their defense lawyers will insist that the government produce in open court all U.S. intelligence on their client along with the methods used by the CIA and NSA to get it. A defendant's constitutional right to demand the government's files often forces prosecutors to offer plea bargains to spies rather than risk disclosure of intelligence secrets. Zacarias Moussaoui, the only member of the September 11, 2001 cell arrested before the attack, turned his trial into a circus by making such demands. He was convicted after four years of pre-trial wrangling only because he chose to plead guilty.

It is naïve to say, as Obama did in his inaugural speech, that we can "reject as false the choice between our safety and our ideals." That high-flying rhetoric means that we must give al Qaeda—a hardened enemy committed to our destruction—the same rights as garden-variety criminals at the cost of losing critical intelligence about real, future threats. As Obama has matured in office and learned more about the nation's security environment, he has adopted policies that suggest more continuity with the past. Obama has so far decided against ending the NSA's electronic surveillance program, which allows the warrantless interception of suspected terrorist communications entering or leaving the country. The new administration not only kept in place, but even expanded, the use of unmanned aircraft to kill suspected

al Qaeda leaders in civilian areas—a far greater deprivation of civil liberties than detention, interrogation, and trial by the military. In May 2009, Obama reversed his decision to suspend military commissions, and even though he has proposed the transfer of enemy combatants from Guantanamo Bay to the United States, he also conceded that many will not be tried in civilian courts but will instead be detained as prisoners of war. None of these policies would be legal unless the United States were at war.

Obama should take a lesson from his political hero, the last truly great Democratic president, Franklin D. Roosevelt. If World War II had not come, FDR might have ended up an average president. His New Deal, we now know, did not end the Great Depression, though it did wreck his own political party. But FDR joined the pantheon of Washington and Lincoln by foreseeing and preparing for the existential threat posed by Hitler and the Axis powers. As FDR himself said, "Dr. New Deal" had to give way to "Dr. Win the War."

> *"As Obama has matured in office and learned more about the nation's security environment, he has adopted policies that suggest more continuity with the past."*

To save his presidency, Obama should follow the real lesson of FDR and our other great presidents and turn away from the failures of health care reform and nationalization of the economy. He will be remembered if he follows through in Iraq, pursues al Qaeda with the restoration of aggressive measures, and achieves victory in Afghanistan. If he loses in war in favor of an attempt to expand the size of government at home, he will take his place in presidential history alongside Jimmy Carter and Lyndon Johnson, rather than FDR and Ronald Reagan.

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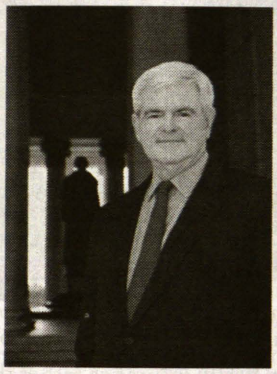
A Speaker's Words

An interview with Newt Gingrich



Conducted by Nicholas Rugoff and Jaclyn Delligatti

Newt Gingrich was the Republican Speaker of the House of Representatives from 1995 to 1999. First elected to Congress in 1978, Gingrich represented the 6th District of Georgia for twenty years. He has published nineteen books and was named Time Magazine's Man of the Year in 1995. He is Chairman of the Gingrich Group, General Chairman of American Solutions for Winning the Future, a Senior Fellow at the American Enterprise Institute, a Distinguished Visiting Fellow at the Hoover Institution at Stanford University, and a news and political analyst for the Fox News Channel. He received a B.A. from Emory University and an M.A. and Ph.D. in Modern European History from Tulane University.

NR: There has been a lot of talk about bipartisanship over the past few years, yet the current political environment seems hyper-partisan to many Americans, with a recent poll showing that around 80% of Americans consider Washington "broken." Given your experience working with a Democratic president while you were Speaker of the House, is bipartisanship an achievable goal?

Well, we are beginning to ironically get bipartisanship between Democrats and Republicans in opposition to Obama. For example, with the recent health care bill, some 38 Democrats split from their party to side with Republicans, so in a way, there is beginning to be an anti-Obama bipartisan group. If you look at Gallup data and other data, and talk with Arthur Brooks – who is the leader of the American Enterprise Institute, has a new book coming out in June called The Battle, and is probably the best student of Gallup data in the country – there is a tremendous split between the world view of left-wing Americans, who are about 20-25% of the country, and the world view of independents and Republicans, who tend to come together on a whole range of issues. Independents became unhappy with the Republican Party in 2006 and 2008, and they temporarily accepted the idea that Obama was a moderate and gave him a substantial vote. Since then, they have come back to the conclusion that he is too left-wing and too expensive, and that his ideas are too radical. We are now seeing a tremendous shift of independents back to the Republican Party. In the last Gallup data that I saw, about 25% of white Democrats were opposed to the "Obama-care plan," while only about 1% of African-American Democrats opposed it. This shows that there is an emerging split even inside the Democratic Party on some of these issues.

> *"I think..the health care bill is actually simply the second stage of a seculad, socialist machine ramming through what it wants, without regard to the country."*

NR: What have been President Obama's best and worst decisions in office?

His best decision was to bring in Jim Jones as National Security Advisor and develop a sophisticated, serious strategy for Pakistan and Afghanistan. His worst decision was actually to ram through, with no one having read it, a $787 billion stimulus package written by Speaker Pelosi and the hard left, because it shaped the rest of his administration. It showed that he was not going to be a centrist, he was not going to be transparent, he was not going to reach out, and that he was going to be a hard left Democratic-machine politician. He did this with no accountability, transparency, or bipartisanship. I think that this permanently damaged his administration and that the health bill is actually simply the second stage of a secular, socialist machine ramming through what it wants, without regard to the country.

JD: You have made it a priority to emphasize the need for new jobs in this economy. In what ways do you propose the government should go about creating new jobs, without overstepping its bounds? What do you believe the role of the federal government should be in such tough economic times?

Representative Gingrich cites Ohio Senatorial candidate Rob Portman (left) and California governor hopeful Meg Whitman (right) as two up-and-coming Republican leaders. (MSNBC / Creative Commons)

First of all, I was just in St. Petersburg last night and Florida has 14.5% unemployment, so it's not a very bold thing to say that we need to focus on jobs. The St. Petersburg Times Sunday Business Section recently said that if we created 225,000 new jobs per month, it will still take until 2015 to get back to 5% unemployment. Now last month we actually lost 37,000 jobs, so we were over 250,000 jobs short of that goal. So jobs had better be the number one goal of government policy because if Americans are not working, then America is not working, and we cannot sustain this country without some kind of growth and economic opportunity. My 527 group American Solutions has a very clear three-part strategy here. The first part is to control spending and move back towards a balanced budget. The second is to have an energy strategy now, and not four years from now or just "someday," so that we can produce energy in the U.S. and create jobs in the U.S., instead of sending the money to Venezuela, Saudi Arabia, or Iran. The third stage is to have five major tax cuts, which would enable us to dramatically restart the American economy. By about 59 to 21, the country believes that business tax cuts are more effective than government spending to create incentives and new jobs. We would start with a 50% reduction in the Social Security and Medicare taxes for both the employee and for the business, which means that every small business would have a substantial improvement in cash flow. Second, we would eliminate the capital gains tax, as China has done. We would have zero capital gains taxes, which would keep us directly competitive with China. Third, we would permanently eliminate the death tax, so that if you own a small business, work your whole life, save, and are frugal, the government won't step in and take half of it away from you when you die. Fourth, to compete in international markets, we would match the Irish corporate income tax rate of 12.5%. Today, between state and federal income taxes, American corporations pay the highest corporate tax rate in the world. Finally, we would allow 100% write-offs in one year for all new productive equipment so that American workers would have the best technology and the greatest productivity of anyone in the world. We think that package would enable us to have a very dramatic increase in economic activity almost overnight, and we think that it would bring us out of the recession very rapidly. The best way to get to a balanced budget is to have full employment with people paying taxes rather than drawing on unemployment, and people paying for their own health insurance rather than going on Medicaid.

NR: There has been talk amongst Senate Democrats of reforming filibusters. What are your thoughts on the filibuster? Has it been abused? Does it need reform?

Majorities always want to reform the filibuster and minorities always want to keep it. When the Democrats were the minority, they loved the filibuster, and when Republicans were the majority, they hated the filibuster, so we are back to business as usual. John Adams said that the Senate was supposed to be the cooling saucer to the hot cup of coffee from the house. The Senate was designed to slow legislation down, make it hard to get things done, and preserve freedom. The Founding Fathers designed the Constitution as a machine so inefficient that no Hugo Chavez demagogue could force it to work. I think that has preserved our freedom for 220 years, and I prefer freedom to speed, and frustration to dictatorship.

JD: You have described the health care bill as incredibly divisive, not just with respect to Republicans versus Democrats, but within the Democratic Party as well. How do you think the bill will affect midterm elections? What will be the bill's long-term effects?

Firstly, I think there is a two part process of repeal and replace. All of the repeal requires a Republican president, so that probably cannot happen until February 2013. The new Congress, if it is Republican, could refuse to finance the bill's implementation by just refusing to pass appropriations. I think that the first real argument will be over adding 16,000 I.R.S. agents. I do not think people want a federal health police. I think that if Republicans campaign this fall on the promise that they will not fund the 16,000 I.R.S. police, and if Democrats campaign on the promise that they will have 16,000 I.R.S. police sniffing into your life, that this issue will

become a decisive election choice. If Republicans win on that, it makes it perfectly authentic for them to refuse to fund it, which is the first step to repealing and replacing Obama-care.

NR: What are three pieces of legislation you would like to see put in place over the next three years?

I would like to see a program for every child from kindergarten through twelfth grade where their parents could choose where to send them to school, without any restrictions from bureaucrats and unions. I would like to see an energy plan implemented using American energy now, so that we could dramatically increase jobs in the U.S., as well as our national security by cutting off our dependence on Saudi Arabia, Venezuela, and Iran. I would like to see the tax policies I outlined for you earlier, combined with a balanced budget, which is something that I helped lead for four years. That was only time in the last seventy years where we had four consecutive balanced budgets and paid off $405 billion of debt. I think we can do it again, but it will require an economy that is growing, Americans who are working and paying taxes because they are employed, and a willingness to reform and control government.

"A majority of Democrats, independents, and Republicans all support enery independence, so it is an issue that ought to bring us together rather than divide us."

NR: What compelled you to start your 527 group American Solutions for Winning the Future? What are the group's ultimate goals?

I became convinced that it was impossible for my grandchildren Maggie and Robert, who are now 8 and 10, to successfully compete with China and India, without fundamental reform of litigation, regulation, taxation, education, health, energy, and infrastructure. I concluded that you could not just get that from the presidency. There are 513,000 American elected officials, and you need a wave of change from school board to city council to county commission to state legislature and governor, and all the way up to Washington. I concluded that to do this, we would need an Internet-based system that reached out on a tri-partisan basis, and found issues like energy independence, which 79% of the country supports. A majority of Democrats, independents, and Republicans all support energy independence, so it is an issue that ought to bring us together rather than divide us.

JD: Many people are talking of how the midterm elections will be a time for Republicans to take back seats in the House and Senate, taking advantage of increased levels of dissatisfaction with government. What do Republicans have to do to win back the hearts and minds of the American people?

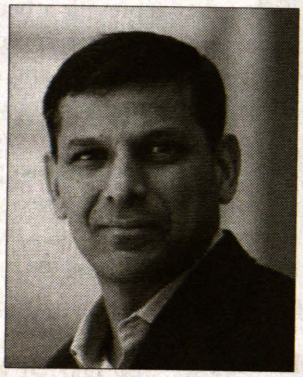
They need to be very clear that they represent a better future and a better alternative, and that the secular, socialist machine now dominating Washington, Sacramento, and Albany is very dangerous to the country. They need to campaign in every neighborhood of the country and reach out to every community, and have the courage, as Margaret Thatcher put it, to win the argument before you win the vote. If they do that, I think that they could have one of the most historic elections of all time this fall.

NR: Which candidates are you most excited about?

People like John Kasich and Rob Portman, who are respectively running for Governor and Senator of Ohio. Scott Walker, who is running for Governor of Wisconsin. I think he will be very important. Mark Kirk, in Illinois, who I think will actually win Obama's former senate seat, which will be fun. Mike Castle in Delaware, who I think will win Biden's former seat, giving both the President and Vice President's past seats to Republicans. I think Pat Toomey will beat Arlen Specter in Pennsylvania. I'm very optimistic and think that we could have a remarkable year. I also think that Meg Whitman is going to be California's next governor. That will be an enormous shift in the right direction and her ability to take on Sacramento will be very exciting. I am pretty optimistic about the emergence of the new generation. Among current elected officials, what Paul Ryan is doing in the House on entitlement reform is brilliant. Kevin McCarthy is doing a very important job developing the core campaign themes of the fall. Eric Cantor is going to emerge as a real leader in the future. We just have a lot of talent emerging in a way that is very encouraging.

Where We Stand

An interview with Raghuram Rajan



Conducted Nicholas Rugoff

Raghuram Rajan is the Eric J. Gleacher Distinguished Service Professor of Finance at the University of Chicago's Booth School of Business. Dr. Rajan is also currently an economic advisor to the Prime Minister of India. He chaired the Indian government's Committee on Financial Sector Reforms, which submitted its report in September 2008. Dr. Rajan was also the Economic Counselor and Director of Research (in plain English, the Chief Economist) at the International Monetary Fund. He is a director of the Chicago Council on Global Affairs, on the Comptroller General. In January 2003, the American Finance Association awarded Dr. Rajan the inaugural Fischer Black Prize, given every two years to the financial economist under age 40 who has made the most significant contribution to the theory and practice of finance.

Firstly, where do we stand today? Is the worst of the economic crisis over?

I think what we're seeing is a shift where a private sector crisis is slowly morphing into a public sector crisis because of the extent of government expenditures. Now, a public sector crisis tends to be less dramatic at one level, since no large governments are currently on the verge of failure. On the other hand, public sector crises are drawn out over longer periods of time and can therefore be more painful because of the adaptations that have to be made. We are already starting to see this in U.S. states such as California, whose state budget crisis is hurting its universities. We also see it in the United Kingdom, where concerns are being raised over whether the government's finances are in good shape, and a lot will depend on the outcome of their upcoming elections. If the election results in a fragile and fragmented parliament, it will create more tension in the United Kingdom. So, as all of this happens, we're seeing scrutiny move from the private sector to the public sector.

> *"I don't think regulators have many options when one of these institutions actually fails, other that to make sure that every possible way that the private sector can bear the cost is explored."*

Modern housing booms and busts typically occur in wealthier segments of the population. What broader factors caused the ongoing housing crisis to be so concentrated in sub-prime, one of the poorest segments?

I think that as government policy actively pushing for expansion in housing, the instruments that the government used to push this policy led to a private sector reaction that took the fundamentally good intentions of government to expand housing into places where that intent probably didn't need or want to go – namely, housing for people who couldn't afford the payments down the line that they would have to pay. There has been a secular push since the 1980s to compensate for the stagnant incomes amongst the lower income segments of the population. These citizens' incomes have been stagnant for a variety of reasons, but I think access to education is an important one. The U.S. also has relatively thin safety-nets, so when you have downturns, unless the downturn is short and quick, there tends to be a lot of political pressure to take action, where fiscal policy ultimately becomes sustained monetary policy. The problem is that in the last two recessions in 1991 and 2001, you haven't seen the response that quickly. I think policy has moved into excess.

You have dismissed the notion of just using "big" in determining what is "too big to fail." Firstly, can you discuss the factors that you believe make a financial institution "systematically important" and how to recognize them? Then, what should regulators do to respond to failures of institutions that are perceived to be too systematically important to fail?

One major factor is being relatively important in a key market. That often makes an institution "systematic" or "systemic," regardless of its size. If that institution has the potential to roil a market that is central to economic activity, then that institution, to some extent, becomes systemic, unless you can find ways for those activities of that institution

to continue, even while the rest of the institution is saved. Another factor is not knowing where the bodies are buried. If an institution has a lot of liabilities, both on and off its balance sheet, which are hard for the market to understand and large enough to create a certain sense of panic if you are unsure who is exposed to those liabilities, this could create widespread uncertainty and to some extent, panic. If the exposures are large enough and widespread enough, then you have the problem of – "not only do I not know who your counterparties are, but I also don't know who the counterparties of your counterparties are," and so on, which can create economy-wide panic. So a mix of complexity and lack of transparency is particularly deadly. I don't think it's possible to define in precise legal language which institutions are too big to fail. I don't think that size by itself is enough, as there are very large institutions that could be failed at a moment's notice, and there are much smaller institutions that are central, and would by most counts, need to be preserved in some form or fashion to avoid a wider crisis.

I don't think regulators have many options when one of these institutions actually fails, other than to make sure that every possible way that the private sector can bear the cost is explored. To turn away from that would be to think that the damage to the economy would be really great. The problem is that for the people making the decision, it is in their incentive to say that the costs would be too big, because the downside falls largely on them. If they let something go and it turns out to be a disaster, they get known as the person who precipitated a great depression. If they bail somebody out and it turns out to increase moral hazard, they never get associated with that moral hazard, and are, for the moment, viewed as a savior. So my sense of the incentive structure for regulators and authorities is that, when push comes to shove, they never want to let anybody who might be remotely systemic fail. I think these calculations, both in terms of bailing out almost anybody who might be systemic, and also not taking any chances on imposing costs on any of their private claim holders, have to change, but they have to change by being anticipated beforehand.

Last year, you stated, "for some emerging markets, though, especially those that can rely on their own, or regional, demand, this crisis could result in a dramatic improvement in relative economic power." Given India's high levels of domestic consumption, will India ultimately "benefit" from the global crisis?

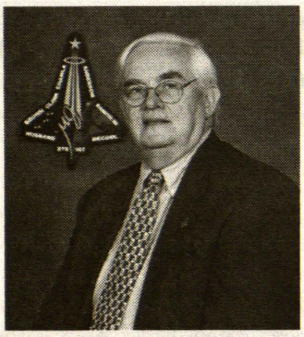
I don't think anybody benefits in absolute terms. I think that it's all relative, and India is already being perceived as more stable than people thought because its growth is coming back. I would say that no country can benefit when large segments of the world are in deep trouble, because we are an inter-connected world. In relative terms, perhaps it can benefit, but it is in best interests of India, as well as China, if industrial countries come back stronger.

Many recent editorials have criticized Indian politicians for India's increased deficit spending. How do you view current Indian fiscal policy? What should the Reserve Bank of India be doing from a monetary standpoint?

On the fiscal side, I think that Prime Minister Singh has certainly made the case in many speeches that fiscal policy has to be brought under control. Deficits are huge, public debt is growing, and that needs to be rectified. Some people argue that countries should spend when they're poor, rather than waiting for when they're rich. I think that's a dangerous argument because it tends to play into more populist policies and clearly, in a country as poor as India, there is tremendous tendency for populist policies. At the same time, I think there are some government expenditures that are needed to keep social tensions under control and let people who haven't benefited from the fruits of growth receive some benefits. The government needs to do more to constrain inefficient and mis-targeted subsidies. For example, the current petrol subsidy that just goes to people who drive big cars has been grossly mis-targeted. Other subsidies, such as cooking-gas subsidies, go directly to middle class households. It does not make sense for these types of subsidies to go to the middle class, because they will ultimately pay them back in terms of taxes. Why subsidize something, get people to overuse that subsidized product, and then collect taxes from the same people to pay for it all? Another particularly pernicious subsidy is free electricity, which goes to farmers, who use it to dig deeper and over-water their fields, resulting in waterlogging. These inefficient subsidies need to come under control, and they slowly will, but in the meantime, revenues might actually get a boost from changes in the tax system, including the introduction of a goods and services tax. I think there is a pretty strong sense that the fiscal policy needs to be mended and don't think people believe that there is an unlimited license to spend. As long as there aren't any adverse shocks, I think India will tighten its fiscal spending over time. On the monetary side, with inflation where it is and with interest rates somewhat negative right now, it does make sense to tighten.

The Future of Nasa

An interview with John Logsdon



Conducted by Byron Edwards

Dr. John M. Logsdon is the Professor Emeritus of Political Science and International Affairs at George Washington University, a Fellow of the American Institute of Aeronautics and Astronautics, and a member of the International Academy of Astronautics. Dr. Logsdon served on the Columbia Accident Investigation Board in 2003. He is a current member of the NASA advisory council.

On Thursday, April 15th President Obama outlined his vision for American space exploration at the Kennedy Space Center in Florida. What do you think of his proposal to terminate the Bush administration's Constellation Program, which would have replaced the Space Shuttle and returned astronauts to the moon?

I think that canceling the Ares I launch vehicle and the version of the Orion spacecraft that was being built is a good idea. However, in his announcement on Thursday, Mr. Obama said that he was revising a slimmed down version of Orion that would serve as a crew rescue vehicle. That preserves the development team for Orion, which I think is a good idea.

> *"The President is not turning the entire program over to the commercial sector but is taking a more commercial approach only to human space flight to lower earth orbit."*

President Obama said in his speech that he has directed Charles Bolden, the Administrator of NASA, to develop a rescue vehicle using the technology from the Orion crew capsule. Will the Orion project focus solely on rescue missions?

Well, that is just the first step. It is a relatively inexpensive step towards a version of Orion that could serve to carry people to as well as from the International Space Station. Eventually, we may go back to the larger version of Orion, though we will not need it until after 2020.

As part of the six billion dollar expansion of NASA's budget, the President wants to "accelerate the pace of innovations as companies- from young startups to established leaders- compete to design and build" new spacecraft. Has relying on private space firms been effective in the past?

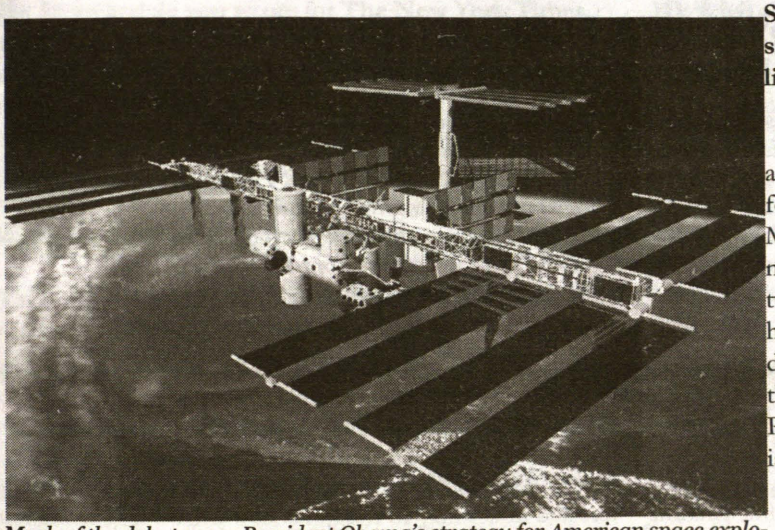
To begin with, NASA has never built a rocket or a spacecraft. Rather, all the work has been done by private companies. The issue at hand is the degree of management and control that the government will impose on the space industry in the future. There is a fair amount of confusion about what has actually been proposed by Obama's administration. All that has been proposed for increased commercial activity is a taxi service that would shuttle astronauts from Earth to the International Space Station. All the work on a heavy lift vehicle or on spacecraft going beyond Earth's orbit will remain a government managed program. Therefore, the President is not turning the entire program over to the commercial sector but is taking a more commercial approach only to human space flight to lower earth orbit.

How has NASA addressed the fact that privately developed spacecraft are not always compatible with other spacecrafts or space instruments?

Well, of course President Obama's plan has not passed yet because Congress must first agree to the proposal. Consequently, it is hard to evaluate the performance of the private sector except to say that at least the Atlas 5 and the Delta 4 are sold to the government on a commercial basis to launch multibillion-dollar spy satellites and other national security

payloads. We seem willing to entrust a very crucial mission to the private sector in the robotic area.

It is expected that by 2025 spacecrafts will have the capability to conduct crewed missions beyond the moon.



Much of the debate over President Obama's strategy for American space exploration centers around the future of the International Space Station (see above). (NASA / Creative Commons)

Do you think that this is a reasonable timeline or wishful thinking on the part of the government and NASA?

No. 2025 is fifteen years from now and I see no reason why, if the adequate resources are provided, that a large heavy lift rocket and a deep-space spacecraft cannot be made available within the next fifteen years.

President Obama said in his speech, "We'll start by sending astronauts to an asteroid for the first time in history." Before the United States attempts a landing on asteroids, should it focus its efforts on returning to the moon or landing on Mars first?

First of all, we will not land on asteroids. Since asteroids are too small to land on, we are going to rendezvous and dock with them. It is not clear whether astronauts will actually step on an asteroid. There are all sorts of complications. In his speech, Mr. Obama said that we should not go back to the moon first, but he did not rule out going to the moon all together. Rather, he said that the first destination should be an asteroid. He also said, and I think everybody agrees with him except Robert Zubrin [founder and President of the Mars Society], that we are not ready to go to Mars. There are too many unknowns and too much research that must be done that we are nowhere close to getting the systems needed to travel to Mars. So, destinations like asteroids and moons make more sense over the next fifteen to twenty years.

President Obama has been criticized for, in the words of former astronaut and senator Harrison Schmitt, "abandoning human exploration and settlement of the Moon and Mars to China and, effectively, leaving the Space Station under the dominance of Russia for its remaining approximately 10-year life." Do you agree with such a critique?

Nonsense in my view. First of all, China has, as far as we know, no formal or announced plans for a lunar mission, much less for a lunar base. Mr. Obama's proposal, if it gets the support it needs, will have more US astronauts flying between now and 2020 than the Bush plan would have had. In addition, it would get us back into deep space, including the moon, quicker than the Bush plan would have. So, the idea that the President is abandoning space exploration I think is just wrong.

The Moon Treaty was created in 1979 in an effort to give the international community jurisdiction of all heavenly bodies. However, it has not been ratified by the United States, Russia, and China. How do you foresee the international community governing space and bodies in space?

That is a fertile area for future work. The approach that was developed during the 1970s that led to the Moon Treaty has been pretty well discredited. People are beginning to take seriously again the issues of property rights on the moon and other celestial bodies. There is no answer to how the moon will be governed except to say that it is an issue that must be addressed.

The Court's Witness

An interview with Linda Greenhouse

Conducted by Jaclyn Delligatti and Nicholas Rugoff (January 2010)

Linda Greenhouse is a Senior Research Scholar in Law, the Knight Distinguished Journalist in Residence and Joseph Goldstein Lecturer in Law at Yale Law School. She covered the Supreme Court for The New York Times between 1978 and 2008 and currently writes a biweekly column on law. She is a 1968 graduate of Radcliffe College (Harvard), where she was elected to Phi Beta Kappa. She earned a Master of Studies in Law degree from Yale Law School (1978), which she attended on a Ford Foundation fellowship.

NR: What is your immediate reaction to last week's ruling in Citizens United vs. the FEC?

My immediate reaction is that the court has finally come out of the closet, and it's no longer the minimalist court that Chief Justice Roberts likes us to think it is. They had a couple of precedents that they didn't like and they had five votes to overturn those precedents, so they just went ahead and did it.

NR: A response last week from legal scholar Richard Hasen hit along those same lines, saying that the court was shifting from principles of "constitutional avoidance" and "judicial minimalism" to outright activism.

> *"The court has finally come out of the closet, and it's no longer the minimalist court that Chief Justice Roberts likes us to think it is."*

Yes, Rick Hasen and I have discussed this matter on multiple occasions, and I agree. If you look at the first 15 or 20 pages of Justice Kennedy's majority opinion, it's very defensive, on why they had to reach the ultimate issue, why they couldn't have found an off-ramp out of this highway, short of overturning the Austin case and part of the McCain-Feingold law, and it's not persuasive. It's simply not persuasive on its own terms. Justice Kennedy says, "the government asks us to interpret the statute in a way that would have us functionally rewrite the statute, and we can't do that." Well, they did exactly that, in a more extreme way last term when they rewrote a provision of the voting rights act because they didn't have 5 votes to actually overturn the provision at issue, so I'm not persuaded that we had to do this.

NR: What lasting effects do you think this will have on the court?

Well, they had their first taste of wine. So, what I'm interested in is to try to think through what might be next in their sight. Let's assume there are quite a few precedents that this crowd doesn't like very much, so does it now mean that everything they don't like, whether it's abortion or civil rights statutes is now fair game? I think it's a plausible concern.

NR: Should corporations be granted the same free speech rights as humans?

In my personal opinion, no. Granting the fact that corporations are persons in some aspects of law, I think that the notion that they have the same free speech rights as individual citizens and that we have to invoke the equal protection guarantee to make sure that the burdens that are not put on individual citizens are not put on corporations is essentially taking an idea that has some foundation and running it right off a cliff.

NR: Will Perry v. Schwarzenegger, the challenge to California's Proposition 8 Initiative, end up in front of the Supreme Court? If so, what do you see as the likely outcome?

Well that's a tough question. I always assumed it would end up in the U.S. Supreme Court, and that it would come up under the court's discretionary docket. I think it does not depend so much on what Judge Walker does, because it's going to go to the Ninth Circuit after, but on how the opinion

is framed. If it were to end up in the Supreme Court, right now, I don't know. Justice Kennedy of course wrote Lawrence v. Texas in 2003, which was a very powerful statement about gay rights.. It's close. I could see it go either way.

JD: In an article you wrote for The New York Times, you say that "the court lives in constant dialogue with other institutions, formal and informal, and that when it strays too far outside the existing political or social consensus, the result is a palpable tension both inside and outside the court." In what instances have you observed the court straying too far from present social or political consensus?

There was a series of Supreme Court decisions in the 1990s that overturned acts of Congress on the ground that Congress didn't have the constitutional authority to have passed those laws in the first place. I made a big deal about it because I just thought it was really fascinating. There was a push-back against that. Congress pushed back, and the political system pushed back. The court stopped doing it. They tended to be very technical decisions, but subgroups of the population were very interested. That maybe was an instance of the court overreaching, that you could call a Federalist revolution. Then, a lot of people cite Roe v. Wade as the court overreaching. That's not my view in that instance. There was a huge debate going on about abortion at the time, and the court actually had plausible reasons to think that it was following public opinion in Roe.

"There was a huge debate going on about abortion at the time [of Roe v. Wade], and the court actually had plausible reasons to think that it was following public opinion in Roe."

JD: What was the difference in the political environment surrounding Roe v. Wade and that surrounding a case like Brown. v. Board of Education? What made people think that the court could have been overreaching in Roe, but not in Brown?

Well, of course there can be many reasons. One reason could be that equal protection, which is what Brown is based on, is hard wired into the Constitution, and it's just a question of, did equal protection mean "separate but equal"? One could have disagreed with Brown, and of course many areas in the South took decades to come around to it, but you couldn't appropriately argue that it wasn't the business of the Supreme Court to decide the issue of the rights of black citizens. Of course, the Constitution doesn't contain the word abortion. So, there's always the argument that the court was out of line in doing anything about abortion, yay or nay. The Constitution doesn't say anything about giving the court the right to step into that area. That's not my personal view, but it certainly distinguishes the Roe controversy from Brown v. Board.

JD: What about capital punishment? The Constitution says nothing about capital punishment, but the Supreme Court has time and time again had to rule on cases about it. Is the use of capital punishment constitutional? Does it violate the 8th amendment?

Well, there's a quite strong scholarly argument that in the Furman v. Georgia case in 1972, when the court declared the death penalty laws of states unconstitutional, that the court did overreach there. People say the court misread what it thought was a consensus, and obviously it did, because within four years with Gregg v. Georgia in 1976 when the court reauthorized capital punishment, there were 38 states that immediately jumped in and reenacted death penalty laws, so that's almost like a test case. What do I think about capital punishment? There's really not one justice on the court today with the exception of Justice Stevens, who will say that capital punishment is unconstitutional. Now Justice Stevens might not necessarily say that capital punishment is unconstitutional in theory, but he came to an opinion much like the one that Justice Blackmun came to at the end of his career, which said that theoretically, perhaps in another world one would be able to devise a system of capital punishment that would be fair, proportional, and all of the things we would hope for in a criminal justice system. However, in his long experience in watching this experiment, it seems to be beyond the ability of human beings to accomplish that. That opinion was different from the view of Thurgood Marshall and William Brennan, who thought that capital punishment was simply unconstitutional. But in my own close observation of capital punishment over my years covering the court, theoretically the Constitution does not flat out prohibit it, I don't believe, but we have yet to devise a system of capital punishment that does not, in its implementation violate constitutional rights.

JD: Do you mean to say, for instance, that the system has disproportionate effects on minorities?

Yeah, I think that's part of the system's problem. I think that we have a serious problem of inadequate defense representation. If you look at the biographies of people who

end up on death row, obviously the crimes are usually very terrible. But if you look at who these people are, you just have to wonder about a deeper kind of causation that is not really addressed by simply executing them. But I don't mean to be a bleeding heart. If I were judging these horrible home invasion cases going on right now in Connecticut, I would have to ask, have those offenders forfeited their right to live in human society? There's certainly a strong argument that they have. So, it's a really tough issue and I don't feel like I have a really good answer, but I know just from studying a lot of these cases that there is just an awful lot that went wrong over the years that just makes you wonder if you can devise a system that can really separate out those most deserving of the death penalty from those who are less deserving, and I don't think we have.

JD: Justice Byron R. White liked to say that every time a new justice comes to the Supreme Court, "it's a different court." How will Sonia Sotomayor change the face of the Supreme Court? How different do you predict she will be from Justice Souter's moderately liberal record?

It's very early. I know very little about the current internal dynamic of the court at this time, but obviously she is smart, extremely hard working and extremely well prepared. I did read the transcripts of arguments she has participated in, and she knows every case very well. She is certainly going to have an impact. But at the end of the day, if there are five people who are just trying to get something done, as in Citizens United, they're not too interested in other peoples' arguments once they have five votes. I would feel a bit naïve to say right now that she is really going to shake up the place and have a big impact; it depends on the whole institutional dynamic in any given term and around any given issue, so I just don't know.

JD: To what extent do you believe that the court has become politicized? How much does public opinion affect the way judges vote?

Well, Barry Friedman wrote a book that's 682 pages on the subject, called The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution. But Barry Friedman's thesis, which I agree with, is not that the court wakes up in the morning, puts its finger in the wind and says, you know, "what's blowing today?" but that over time, the court tends to situate itself in the mainstream of public opinion and it reflects public opinion, which makes sense, because the justices get on the court through the political process of the president nominating them and the Senate confirming them. And as a part of the government, the court is really limited to its power to persuade, its power to command the respect of the public, which it has succeeded in doing to a remarkable degree over the years. In social science polling, the court is always the most respected arm of government. The court really has been pretty successful in reflecting not necessarily the opinion of the moment, but the tenor of the time, and I think that's not surprising.

JD: Do you agree with people who say that sometimes the court's decisions are influenced by liberal media bias?

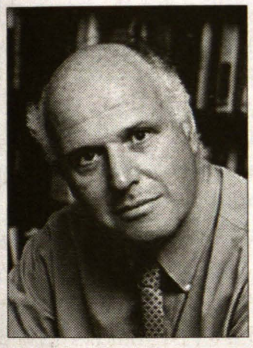
Well, no, the whole "Greenhouse Effect?" Properly understood, they are referring to me not as an individual but as sort of an embodiment of Eastern liberal media, namely The New York Times. No, I don't think that's the case, but it's certainly true that over time, the court certainly cannot be completely at odds with the American public. I mean, that's what happened in the Roosevelt court-packing crisis. I hear people speculate that if we were ever to pass a health care bill with a mandate that the court would declare it unconstitutional, but I would be completely shocked if that ever happened, because that would really be a return to the 1930s, where the court was standing in the way of major social legislation that the public had called for. So, I would be extremely surprised if that ever happened again.

JD: In writing of the Supreme Court's relationship with society, you say, the Supreme Court is often a follower: it ratifies or consolidates change, rather than propelling it, although in the midst of a heated debate about a big case, it can appear otherwise. What do you mean by this?

Well, I think I probably had Roe v. Wade in mind. Abortion reform had been going on for 15 years by the time the court decided Roe, so when people say that historically, the court started it, no, they didn't. The court doesn't start much. It can't, really. Cases reach the court after years of debate. Just look at Proposition 8. It's coming up ten years after Lawrence v. Texas and five years after the start of same sex marriages in San Francisco City Hall. So, things get to the court only because they have been working their way up through the rest of society, and it's worth keeping that in mind.

Labour's Last Stand

An interview with Professor Jay Winter



Conducted by Edward Delman

Jay Winter is the Charles J. Stille Professor of History at Yale University, and is a specialist on World War I and its impact on the 20th century, as well as British History since the turn of the 20th century. He is the author of over a dozen books, including but not limited to Socialism and the Challenge of War, Ideas and Politics in Britain, 1912-18, *and* The Great War and the British People. *He was also the co-producer, co-writer, and chief historian for the PBS Documentary "The Great War and the Shaping of the 20th Century," for which he received an Emmy Award, a Peabody Award, and a Producers' Guild of America Award for best television documentary.*

Prime Minister Brown has now officially called for the General Election to be held on May 6th. Do you believe Labour still has a chance to pull through, or is it time for the swing back to the Conservative Party?

I think Labour has a chance, and in part a lot depends on what happens tonight in the first of the Prime Ministerial debates.

And those debates will also be the first televised Prime Ministerial debates in British history, correct?

It's part of the Americanization of the British political system – and the possibility exists that the current Prime Minister will be shown to be a man of gravitas, with the responsibility to carry out further reforms in a state that's already doing a pretty good job in education and health services. If Labour has a chance, it's because of that. My own guess is that the Conservatives will win by a narrow majority, because of the way in which the Blair and Brown governments have lost the support of Labour movements in the constituencies all over Britain – and this is something that is, by and large, grounded in the split between Blair and the party over the war in Iraq. So Labour, I think, will not go to the polls in the same numbers as it did in the previous three elections and the Conservatives will benefit from a kind of "Throw the Bums Out" momentum, but not countered adequately by rock solid Labour support. So I think Labour has a chance, and the debates do matter – but on balance my guess is there will be Conservative Prime Minister come the May 7.

> *"I think the Labour Party has a big albatross around its neck called Tony Blair"*

Do you think the Expenses Scandal was the nail in the coffin for Labour's support after the Iraq War?

I see the scandals as again being part of the Americanization of the British political system, because this kind of selling lobbying for people about to go into the private sector is perfectly legal and, if not morally acceptable, is realistically part of the American political world and Labour MPs and others have simply looked over the ocean and said, "Why can't I get my cut from being on the government side of negotiating contracts, and I can talk to people who want those contracts and help them work out how to do it." In this country, there's nothing wrong with it. People make fortunes out of it. But in the British political system it indicates something about the blurring of the distinction between the executive and legislature, and that's the critical thing. The sovereign state in Britain is the Queen, sovereign in Parliament, and selling influence undercuts Parliament. So what happened in the Blair government, and what happened with Margaret Thatcher before is the Americanization of British politics that separates the executive from the legislature, and the executive does its own thing so ministers can sell their services. This is an American idea that has come lately to British politics, and it isn't acceptable because the norms of British political life are different. Two presidential Prime Ministers, Margaret Thatcher – in office for eleven years – Tony Blair in office for eleven years and only a little bit, just to make sure he was in office only that

much longer than Margaret Thatcher – destroyed their own parties, and my guess is that this destructive element is built into charismatic leadership.

If I could go back to this "Americanization of British politics" that you've brought up, I've read that with this first televised debate, people are drawing comparisons between this debate and the first televised debate between Nixon and Kennedy. Some people are guessing that Cameron's younger figure will give him an advantage over Brown. Do you think there's any credence to that?

David Cameron, Conservative Party leader, at the World Economic Forum Meeting this year at Davos. (Wikimedia Commons)

Yes, I think he will appeal to younger voters, but Cameron is also a very good debater, and he'll have some very snappy phrases – he always does – and that's all to the good. He appears fresh, new, and different. He doesn't have the heavy, patronizing condescension of a lot of his Conservative peers, who talk down to everybody. He's much better than that. However, Brown should not be underestimated. If he learns to stop talking, I think he can do very well. But he has a tendency to go on and on, and if that happens I think the voters will simply turn off their minds, before they turn off their televisions.

Regardless of who wins the election, it certainly seems like the Conservative Party has made a major comeback since Blair was elected in 1997. So other than the war in Iraq, what do you think are the reasons for this resurgence?

Well as I said, Margaret Thatcher did the same thing. Charismatic leaders destroy political parties at the ground level. Local constituencies run all political campaigns, and when people vote in British elections, they don't vote for the Prime Minister, they vote for their MP. Margaret Thatcher in some ways destroyed the local level of the Conservative Party, and she had her coterie around her and she ran it the way an American president does – with people who give spin for her particular point of view and so on. When the Conservatives lost in 1997, it looked to me as if they were going to be in opposition for maybe twenty years. Tony Blair restored the opposition by going into Iraq on the side of George Bush. He didn't have to do it. It was a decision not so much on conviction – Margaret Thatcher was a politician of conviction – as on faith.

And then he also kept on pushing the WMD issue?

On faith – they were there because he believed they were there, and he believed the Americans were going to reconstruct Iraq as a democracy because they said so. So it was faith that was involved; he really believed that there was some degree of legitimacy in the promises that George Bush gave him. I'm not saying Bush lied, but politics change, and when he [Tony Blair] got stuck with the war in Iraq, he became very much like many other politicians, in that once you get in trouble with a policy, you're too deeply ingrained to get yourself out of it, and so he carried on. That's where I think the Labour Party paid the price. If Blair had not gone into Iraq, I think his successors would probably now win the election. But what Blair did by going into Iraq was to give an enormous boost to the recovery of the Conservative Party, who now appear to be finally capable of retaking power. If Blair had not gone into Iraq, I think the Conservatives would be somewhere trailing way behind. So what Blair did was to put the national interests over party interests – that's the best way of looking at it. The worst way of looking at it is that he betrayed his party, and indeed the majority of the nation that didn't want that war. The demonstration in London just before the war was the biggest ever held in Britain. And so he separated the Prime Minister's office in a presidential manner, not only from his party, not only from the House of Commons, but also from the nation. As a result of that I think the Labour Party has a big albatross around its neck called Tony Blair.

Do you see any connection between this rise of the right – not only this resurgence of the Conservatives

but also even the British National Party, who has now gained a notable number of seats in Parliament – and the rise that is currently occurring in the U.S. – Sarah Palin, tea parties, Scott Brown in Massachusetts, etc.?

I don't see any analogy between the two cases. The strength of the British National Party is minor, and it shows up in the protest votes of European elections more than it does on national ones. My guess is that the BNP won't win a single seat in the coming election. That won't mean that there aren't people who think that way. The important point is that the feelings of British Conservatives are much more about race than about class, and the presence in Britain of a substantial Islamic population from South Asia, or brown or black – Africans as well – worries them, because Britain is white. Now I don't believe that the Tea Party movement is racially focused, although there is a subterranean current of not liking Obama because he's black, and thinking that he favors black people because he is black and doesn't favor whites. So the language of race in Britain is different, and probably illegal if you translate it directly to the United States, because Britain ended the slave trade earlier than everybody else and doesn't have the experience of slavery and its aftermath that the United States has. So I see the Sarah Palin/ Tea Party business to be more about class – and about immigration, which is something else – than about race. In the British case, the BNP is about race.

Bismarck, North Dakota, Tea Party Protest April 15, 2009. (CreativeCommons)

I've read that on the political spectrum, David Cameron and his Conservative Party are far more similar to Barack Obama and the U.S. Democratic Party than to the U.S. Republican Party. Is there a reason, either historically or otherwise, why the U.K. political system seems to lie so much more to the left than the U.S. system?

Well one reason is that the concept of citizenship in Britain includes healthcare; it's what citizenship is about. You can't be a citizen if you're sick all the time. You can't be a citizen if your children are incapable of going to school because they don't have proper nutrition and proper care. From the beginning of the 20th century, Britain has had health insurance that this country still doesn't have – the current Obama plan is a century behind that of Britain. So citizenship is a different matter – and by the way, the reason for the early healthcare was not about equality, it was about imperial power. An empire could not have a scrawny, rickety, hump-backed working class – they couldn't do it; they couldn't have an army or a navy or anything else for that matter to maintain it. So let's not overdo the progressive character of British politics. It was imperialism that drove the social welfare legislation of the early part of the 20th century. The difference is American citizenship is about civil rights; British citizenship is about social rights, and the difference between the two is vast. Nobody, so far as I know, in the Conservative Party has any interest in dismantling the health service at all. Go to the Tea Party and ask them if they want socialized medicine – you'll see, not a single one of them will. Britain has socialized medicine, and Conservatives want it, but they want it to be done well, and efficiently, and they want freedom of choice and so on. So the assumptions of citizenship vary between the two countries in such a way as to enable you to say that British politics is more to the left, because social rights is what happens in Britain, whereas civil rights is what happens here.

Do you believe this particular political alignment is unique to the U.K., or is it indicative or a greater, historical European trend?

European countries brought in health insurance in the 19th century, before Britain. Germany is the pioneer, and it was through Otto von Bismarck – as conservative as you can get. So there is a European tradition of using the state to protect the biological characteristics of great powers, and it's a very different story in the United States, where the state took on

very different roles. I would say that Britain is more European than it is American, although after Margaret Thatcher and Tony Blair the political system is changing more toward the American style than the European.

How do you think the British would react to a party such as the U.S. Republican Party in their country?

Well, I think there would be massive strikes, because there are substantial numbers of workers who are used to partnership with government - in the sense that they're no longer nationalized because Margaret Thatcher got rid of nationalized industry – but they're part and parcel of the negotiation of wages, and the negotiation of economic policy in Britain. So, if a Democratic style Labour Party or Conservative Party were replaced by an American Republican style government, I think there would be industrial disorder on a grand scale. It would be a real test to see if the population would side with the workers or the government. Margaret Thatcher succeeded in breaking the power of trade unionism at a time of massive inflation, but we now don't have that. It's a tiny inflationary period, and a period of high unemployment. My guess is that if the Republican style leadership came to Britain, there would be social chaos. And who knows who would win? It would be ugly.

"American politics and European politics work on very different rhythms, and the primary difference is that the right in Europe is secular and not Christian."

– especially since the government in Britain still owns a good amount of industry.

Well it has a substantial service sector with the National Health Service, but if the Conservative government tried to denationalize the health service – privatize the whole thing – there would be a riot among its own supporters. They want it because, to a degree, it's an excellent system. You know I raised my children under the NHS; I know what it offers. It's not great if you need to wait for a hip replacement, but it's great for urgent care, and it's also very strong for very serious illnesses like cancer. So, this country doesn't have the health care system, but it would be interesting to hear the transcript of the debate tonight (April 15). My guess is that Cameron will say he wants the health service to be as good as possible, and wouldn't want to denationalize it at all. But let's hear what he has to say.

Do you see the rise of the Conservatives in the U.S. as being indicative of any similar trend in Europe, a la Sarkozy or Merkel, etc.?

No, I think that American politics and European politics work on very different rhythms, and the primary difference is that the right in Europe is secular and not Christian. For a whole series of reasons, church and state have been separated effectively, if not formally in Britain. Certainly in France it's been that way. Given the weight of the sexual scandal of the Roman Catholic Church, Catholic countries don't look to their church for leads on questions of a social nature, that's for sure. So the really interesting point is that this [the U.S.] is still a church-going nation. Europe has ceased to be a church-going continent for generations, or certainly sixty years. So who goes to church in Europe? They're immigrants from Latin American, from Africa, and from Asia. Overwhelmingly you'll go to the churches and you'll see black faces, yellow faces, brown faces. The really powerful supporters of church life are not native Europeans, but people who come from other parts of the world, and are still living religious traditions. The same is true to a degree here, but the important thing is that the Republican Party is a church-going party. Whether or not the Democratic one is, I don't know. I'm not sure about that, but I can tell you the distinction is that European politics is secular; it's not about religious faith, and that's true all over the place. And spectacularly in Old Catholic countries like Spain, there's nothing to do with the Catholic Church. In Italy, nothing to do with the Vatican. Greece, Portugal, the old Mediterranean Catholic world, forget it; the church doesn't matter anymore. That's why I think you won't find something like the resurgence of the radical right in the United States in Europe.

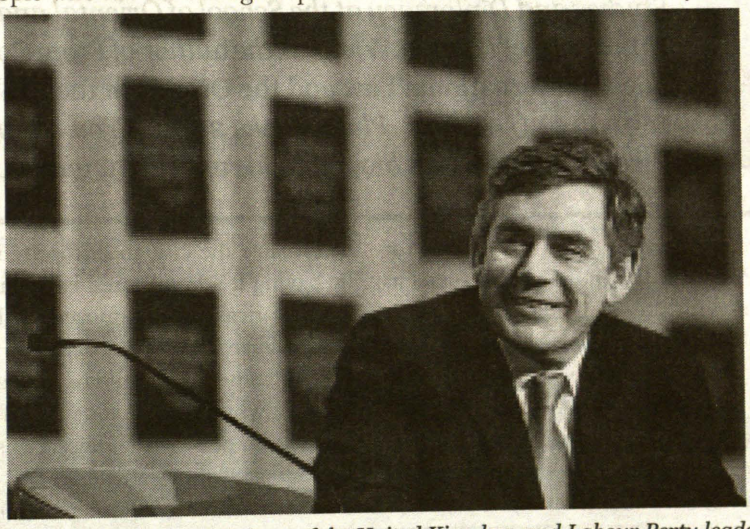
Isn't it a bit ironic? The United States is supposed to be the country where church and state are constitutionally divided.

That is one of the ironies, isn't it? Maybe the style of politics differs from the substance. The Bill of Rights says that the church shall not make any legislation, but that doesn't mean that the people who engage in politics can't use their beliefs as their core political position. I think it's a very odd and remarkable mixture of faith and social class that's created the Tea Party and other things, but nothing like it exists in Europe.

Do you think it might be because the American political system puts so much more of an emphasis on

personality than on party, in comparison to the European system?

No, because as I said, what Margaret Thatcher started, Tony Blair has finished, and that's the Americanization of the British political system – and there you see church and state are unified. Tony Blair converted to Catholicism after he left, but nonetheless his faith isn't what it was about. British politics is not about these fundamental issues; it's about decency, fairness, equity. It's about a certain kind of social contract, in which the people who fall off the tightrope of the labour market will have a safety net underneath them. It's a different view of what it means to be a citizen.



Gordon Brown, Prime Minister of the United Kingdom and Labour Perty leader, captured during the session 'Three Crucial Questions for the Prime Minister of the United Kingdom, Gordon Brown" at the Annual Meeting 2008 of the World Economic Forum in Davos, Switzerland, January 25, 2008. (CreativeCommons)

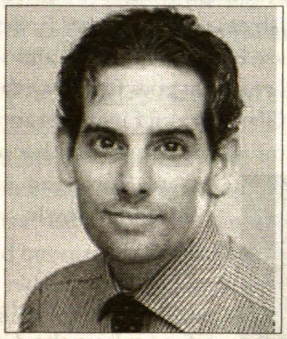
The U.K. has often in the past been split between joining the greater European community in order to reap its economic benefits, and remaining a sovereign nation to retain its independent identity. How do you think the current Eurozone crisis has affected the British perception of their involvement in the EU?

The British position is exactly the same way now after the Greek crisis – which is not the first, there are others before it – as it was before, which is British sovereignty has to be retained in symbolic ways, but British trading has to be maximized by the European Union. So Britain retains two key, separate symbols. The first is the pound sterling; the second is separate immigration controls. It's not part of the Schengen Agreement, where people can move from one state to the other freely – if you go from France to Germany, it's like going from Connecticut to Massachusetts, anybody can work in one or the other. But when you get to Britain you have to stand in line for passport control. Even when you're a European Union member, Britain has retained control over entry to the country. So the British state has symbolic forms of maintaining its sovereignty, but at the same time, trade with Europe is where the future is. It's a balancing act. My guess is that the longer Europe survives and perhaps overcomes some of these structural problems that it's facing now, the more likely it will be that some day the pound sterling will go and Britain will become fully European. I can see it much more likely than retaining the symbols of separateness. Ireland, for example, has benefited enormously from being a European country, and this is the great contradiction with immigration control, because Northern Ireland is part of the United Kingdom, and the traffic from southern Ireland to Northern Ireland is pretty easy. So the Irish case always makes Britain a strange animal. It's a strange case because Ireland is almost a link to Britain with an umbilical cord that goes from Northern Ireland across the Irish Sea to Glasgow and Liverpool and so on. The view I would offer you is that Britain will become more European over time, but slowly, very slowly.

And you do think if or when the Conservatives come into power, they may try to latch onto this issue?

No, I think they're going to try to do something slightly different, which is to move more powerfully toward Obama. My guess is that the Labour party is more pro-European than the Conservatives, and that's because the Conservative party is an alliance of very different groups, and some of them are old-fashioned patriots who don't like Europeans. "They don't speak English after all, what good are they? How can they be serious people if they don't speak English?" So there's a little Englander, a gut patriot, in the Conservative party, who is much easier with the idea of America where people speak English, than with the French.

Why Obama is Right to Stand up to Israel: The Settlement Controversy under International Law



By Victor Kattan

Victor Kattan is a Teaching Fellow at the Centre for International Studies and Diplomacy at the School of Oriental and African Studies, University of London. Victor is the author of From Coexistence to Conquest: International Law and the Origins of the Arab-Israeli Conflict 1891-1949 *(London: Pluto Books 2009). You can read more about Victor, including his blog, and his articles at www.victorkattan.com*

U.S.-Israel relations are reputedly at their lowest ebb for years. Last month, Vice-President Joe Biden visited Israel to bolster peace negotiations with the Palestinians. To shore up Israeli support, he told Prime Minister Netanyahu that the US had an "absolute, total, unvarnished commitment to Israel's security." He did not expect that on the very same day, Israel's Interior Minister would announce that a decision had been made to construct 1,600 new housing units that would almost double the size of Ramat Shlomo, an ultra-Orthodox settlement in East Jerusalem. The expansion of the settlement, which is contrary to international law, killed off the proximity talks with President Abbas which were supposed to have begun in earnest that week. Biden reportedly left Israel embarrassed and angry. The rift was not healed when Netanyahu arrived in Washington later that month to speak at AIPAC. The White House imposed a news blackout on the meeting between Netanyahu and Obama. There was no picture of the two men together and no press statement by the White House as is customary on such occasions.

> *"The Israeli government was aware even before it began settling its population in the West Bank in the 1970s that its settlements policy would be illegal."*

The Obama administration is on solid ground in its confrontation with the Israeli government over its refusal to stop constructing settlements in East Jerusalem morally, legally, and politically. It has been long-standing U.S. foreign policy to oppose Israel's attempts to alter the facts on the ground by constructing settlements in the occupied territories in an attempt to alter its ethnic and demographic composition. Jerusalem is also home to the Holy Places which are of special significance to the three monotheistic religions. This is why various attempts were made in the past to internationalize the city, to diffuse religious and racial tensions, by having it administered by a third party. However, Israel has historically been opposed to plans to internationalize the city because it views Jerusalem as its "eternal and undivided capital," although this has never been recognized by any other country, whose embassies are located in Tel Aviv. Moreover, the eastern part of the city is considered occupied territory, which means it has a distinct and special status under international law. No state has recognized Israel's annexation of the eastern half of the city, which was condemned by the UN Security Council.

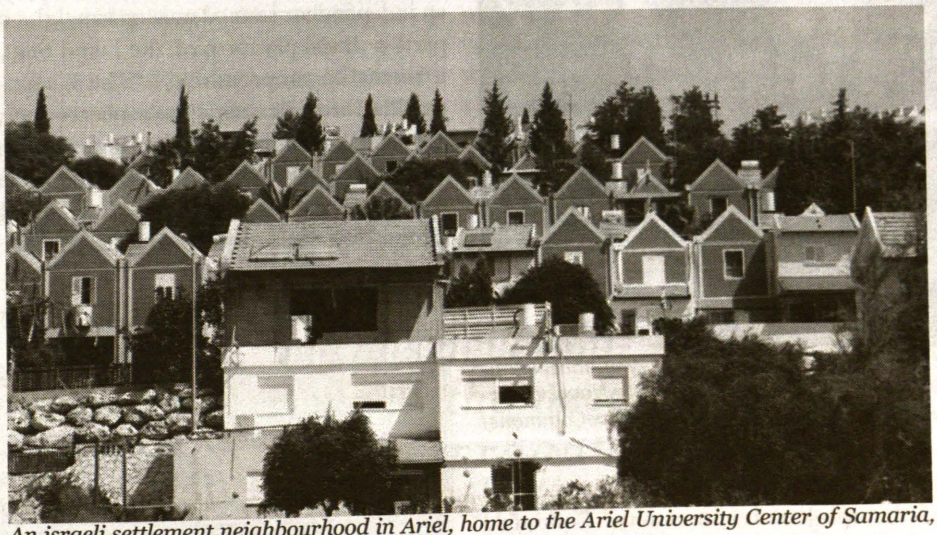
Disputed or Occupied Territory?

Israel has employed a number of arguments, both legal and political, to justify its four decades long policy of constructing settlements in the occupied Palestinian territories. These arguments all relate to the legal status of the territory that was occupied by Israel in 1967. Under international law when territory is captured in an armed conflict, it is placed under belligerent occupation, regardless of whether the conflict which preceded it was lawful or not. One often comes across the argument that the territories are "disputed" rather than "occupied." Beyond the realm of propaganda, this argument is disingenuous and spurious since the Israeli government has in practice always treated the territories as occupied as has Israel's Supreme Court in a number of rulings. This is why Israel uses military orders to channel Israeli legislation into the occupied territories for the benefit of the settlers, why the Supreme Court considers the norms of belligerent

occupation in its assessment of government policy regarding "targeted killings," its construction of the barrier, and the application of legislation from workers rights to human rights. The only issue that Israel contests is the applicability of the Fourth Geneva Convention of 1949. It disputes that the Convention applies in its entirety to the occupied territories, a view no one outside Israel accepts, and which does not affect the status of the territory as occupied. Israel has never contested the application of the Hague Regulations of 1907 concerning the Laws and Customs of War on Land which applies to occupied territory.

The Position under International Law

Article 49 (6) of the Fourth Geneva Convention provides that: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." Almost six years ago, fifteen judges representing the principal legal systems of the world at the International Court of Justice, which is the principal judicial organ of the United Nations based in The Hague in The Netherlands, ruled unanimously in an advisory opinion that the Fourth Geneva Convention was applicable to the occupied Palestinian territories and that Israeli settlements there are illegal. This included the opinion of Thomas Buergenthal, a Holocaust survivor who is also the U.S. judge at the International Court and who, while exercising his discretion to refrain from hearing the case, concurred with the Court's finding on the illegality of Israeli settlements.



An israeli settlement neighbourhood in Ariel, home to the Ariel University Center of Samaria, Israel's largest public college. (Wikimedia Commons)

It should be noted that the Israeli government was aware even before it began settling its population in the West Bank in the 1970s that its settlements policy would be illegal. Theodor Meron, a former judge at the International Criminal Tribunal for the former Yugoslavia, and presently Professor of Law at New York University's School of Law, made this clear in a legal memorandum he wrote when he was the legal adviser to Israel's Ministry of Foreign Affairs. "My conclusion," he advised the Israeli Government on 18 September 1967, "is that civilian settlement in the administered territories contravenes explicit provisions of the Fourth Geneva Convention." An authoritative English translation of the declassified legal advice is currently available online at the website of the Sir Joseph Hotung Project in Law, Human Rights, and Peace Building in the Middle East at the School of Oriental and African Studies, University of London.

In 1978, Herbert J Hansell, the U.S. State Department's Legal Adviser concurred with Meron's reasoning by reaching the same conclusion: Israeli civilian settlement activity in occupied territory is contrary to international law because it breaches Article 49 (6) of the Fourth Geneva Convention 1949. In addition to this legal advice there were a score of UN Security Council resolutions passed in the late 1970s and early '80s condemning Israeli settlement activity. Indeed when former President George Bush Sr. was Ambassador to the United Nations in 1971 he expressed his regret that Israel had failed to abide by its obligations to refrain from constructing settlements which he said were, and I quote, "contrary to the letter and spirit of the fourth Geneva Convention." It has recently been reported that the U.S. government may abstain from voting on any draft resolution presented to the Security Council condemning Israeli settlement activity should the disagreement with Israel over the settlements in Jerusalem remain unresolved.

Eugene Rostow's Argument

Some older readers of *The Politic* might be familiar with the argument advanced by the late Eugene Rostow, who served as Under Secretary of State for Political Affairs under President Lyndon B. Johnson and who was once Dean of Yale Law School. In 1979, Rostow published a paper in the Yale Studies in World Public Order in which he invoked the history of the British Mandate of Palestine to support Israeli claims to sovereignty over the whole of the Holy Land including the West Bank and Gaza. He attacked the U.S. State Department's advice on the illegality of Israeli settlements and reached the rather strange opinion that "Jewish rights of immigration and close settlement in the West Bank and

Gaza Strip, established by the [British] Mandate, have never been qualified."

The argument advanced by Rostow is at variance with British law and state practice in the mandatory era which I am familiar with as I wrote a 400-page book on it. This is because on May 15, 1948, the British Mandate was legally terminated by the British authorities in Palestine and Westminster. One cannot rely on an international instrument which no longer exists. Moreover, Jewish rights to settle in Palestine during the mandate were always subject to restrictions from immigration, to land usage, to the political rights of the indigenous Arab population. This was implicit

Vice President Joe Biden, Israeli Prime Minister Benjamin Netanyahu and their delegations sit down for dinner at the Naval Observatory in Washington, D.C., March 22, 2010. (CreativeCommons)

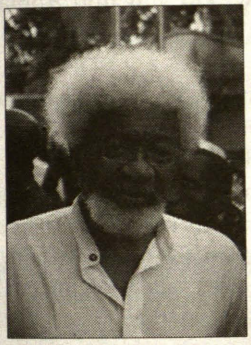
from the terms of the mandate and from the safeguard clauses in the Balfour Declaration protecting the civil and religious rights of the non-Jewish community. Continued Jewish settlement in the West Bank today also conflicts with the right of the Palestinians to self-determination which has been recognized in numerous international instruments, resolutions, and by the International Court of Justice in its 2004 opinion. An independent and viable Palestinian state living side by side in peace and security with Israel can only emerge once Israel relinquishes control over the occupied territories and ceases settlement activity.

Concluding Remarks

In 1947, the United Kingdom turned over the future destiny of Palestine to the United Nations which voted in favor of the Partition Plan that sought to create a Jewish state and an Arab state in Palestine. Jerusalem was to be placed under some form of international administration as a corpus separatum. Israel accepted that Plan, which is mentioned in its Declaration of Independence. It was also on the basis of Israel's acceptance of that Plan that many states afforded it recognition in 1948-9. Thus they did not recognize Israeli claims to Jerusalem nor to those areas which had been assigned to the Arab state in that Plan. The Arab states opposed the UN Plan because they thought that it was unfair to the Palestinian Arabs who in 1948 still formed a majority of the population and owned most of the land. After several Arab-Israeli wars, including the June 1967 War, when Israel occupied East Jerusalem, the West Bank, and the Gaza Strip, the Palestinians have come to accept that Israel is an accomplished fact. In 1993, Yasser Arafat recognized the state of Israel, in the hope that Israel might one day reciprocate and recognize the right of his people to an independent homeland as well. This has yet to happen. In 2002, the Arab League—comprised of 22 member states including Egypt and Jordan who have already made peace with Israel—offered full normality and diplomatic relations with Israel if it would withdraw from the territories it occupied in 1967, cease settlement activity, and allow the Palestinian to create an independent state. Israel spurned the offer. Instead the party political platform of the Likud that Netanyahu chairs is totally uncompromising. "The Government of Israel," the Platform dictates, "flatly rejects the establishment of a Palestinian Arab state west of the Jordan river." On the question of settlements, the Platform states that "the Likud will continue to strengthen and develop" them, thus further diminishing the prospects for peace in the Middle East.

Nigeria in a Writer's Eyes

An Interview with Wole Soyinka



By Nathaniel Sobel

Akinwande Oluwole "Wole" Soyinka is a renowned literary figure and human rights activist, whom Henry Lewis Gates, Jr., called in the New York Times, "the spirit of democracy in Africa." A playwright, poet, novelist, essayist, and fearless human rights activist, Soyinka, born in 1934, was the first African to win the Nobel Prize for Literature in 1986. Jailed many times as a political prisoner, including nearly two years spent in solitary confinement, Soyinka has stood in strong opposition to dictatorship in Nigeria.

What is the role of the writer in contemporary society? Does the writer have an obligation to do justice?

The writer is first of all a citizen of his own nation. Or to put it more accurately, the state does not always deserve to have citizens, so the writer is a member of his or her community. That means that the writer shares the same responsibilities as any other member of the community and the only difference is that the tool of the writer is words, which of course is the most direct means of communication. In the process the writer develops skills which enable him or her to penetrate, to cross the gap, between the material and the tools needed to move towards the attainment of a goal of society. That's what sets the writer apart. Now it's inevitable that in certain circumstances of conflict, the writer's role comes to the fore. Human beings are constantly looking for someone to articulate their condition. This is especially true in times of crisis (which can go on for generations and generations). So the writer's activity becomes very prominent there. What probably prompted your question is that I have insisted that there is nothing that says that the writer must do this or do that. If it does, then that is also the duty of citizens and applies to all other members of the community: carvers, painters, a team of footballers, etc. So it is important for the writer to choose his own battles. Otherwise the writer will succumb, not literature.

> *"The question of language for me has never obscured the need to interrogate one's own culture, one's own worldviews."*

Can to explain what made you into the writer you are today?

For some reason or other, I took to books, to the written word very early. And along the way I learned that words are not abstract, but relate to material conditions. I also found that material conditions are often unacceptable. I found that I became a writer who responds to unacceptable conditions. And this has to do with temperament. I do not accept a universal principle of writer's commitment. I simply admire the works of writers who create and make a literary product which elevates human horizons. Not in any specific way, simply as those who write with a sense of the human condition, as opposed to the narrower political condition. If I pick up a poem and it has something to do with the immediate environment, immediate political condition, immediate crisis of existence, at a particular moment which simply opens up a new way of looking at reality, I believe that writer has already performed his or her duty as a writer. Not all writers have the temperament to be engaged, and if they don't have that temperament, they will find that they are still engaged. They are simply engaged in the less immediate manner, but with no less impact on the lives of human beings.

Can you explain your decision to write most of your works in English. Today, to what extent do you consider English an international language?

First of all, I didn't have a choice. I grew up in English, although bilingually, true enough. But English was the language of instruction. My first language when I was younger was Yoruba, of course, but at a certain stage I moved on to English. I was a growing individual engaging in the complexities

of life, and English corresponded most to that period. In addition, in Nigeria you have about 312 languages, and you want to communicate with everyone. It's natural to feel that the language which is common to all is the logical language of communication. It is the language of the courts and the majority of the newspapers (there are also indigenous language newspapers). It's also the language understood by roadside mechanics, the factory worker, and by some peasants (not all). It was thus not too long before English became the language of one's thought processes and that was the life around you, conducted in English. Even the military coups, which came and broke up your lives, were announced in English. It is the common language. It wasn't a choice as such. It is the most ordinary thing to do, let's put it that way.

> *"I do not think that Nigeria can be described as deeply divided along religious lines...economic factors are the greatest dividers in Nigeria at the moment."*

Recently you spoke on how political correctness can "subjugate the voices of other societies." Will you comment on why you think this is so?

The question of language for me has never obscured the need to interrogate one's own culture, one's own worldviews. In fact, for me the colonial language is just a vehicle for exploration and expression. At no time did the culture to which that language belonged take me away from the values of the society in which I grew up and found exceedingly rich. After the period of colonialism, which in some parts has never really ended, grew this notion of a "dialogue," understanding one another culturally, and so on and so forth. And I thought that now we run the risk of concentrating too much on this dialogue between East and West. We have actually gotten carried away with the comparative process and failing to bring out what is truly important in each culture. There has been so much to discover and bring up in one's own culture, you become complacent because you are already exchanging. But the exchange will be on a very superficial level. I said this at the time when it was the most simplistic aspects of indigenous cultures which were being proposed as the totality of African cultures. Religions, for instance, were treated as some sort of exotica, instead of being made to stand in their own right.

Kwame Anthony Appiah has proposed cosmopolitanism, or "universalism that express concerns for everybody in the entire human community" as a vehicle through which different cultures can interact. Do you find Appiah's theory compelling?

Appiah's definition of cosmopolitanism is a very special one. And it is valued, but it is first important to understand that one can extract cosmopolitanism in all cultures. I could argue very forcefully that in fact what Appiah identities as cosmopolitanism is embedded in Yoruba culture, its capability to expand and absorb virtually any new experience into its own anterior sense of human wholeism. I find virtually no contradiction at all to Appiah's position.

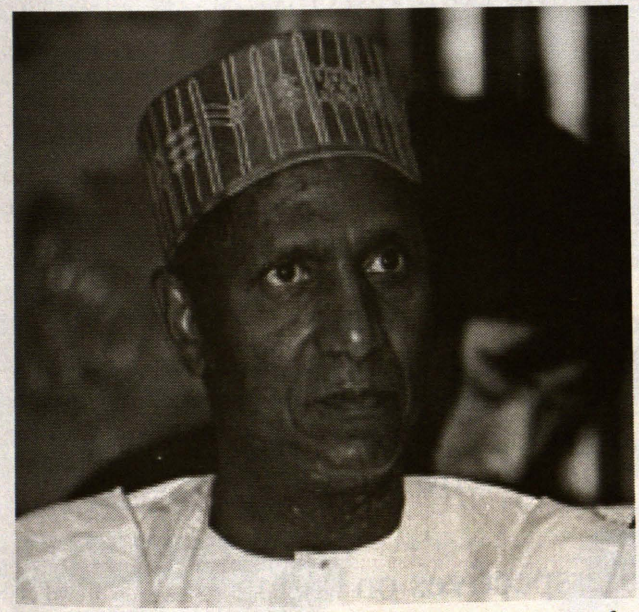
A recent article in the New York Times described Nigeria as a country divided along, "religious, ethnic and political fault lines." How accurate is this representation of Nigeria?

It is a distorted picture. But that distorted perception is not without foundation. The religious divisions have become more acute in certain parts of Nigeria, because they have become a plaything in the hands of very sharp politicians. The same is true with the ethnic-identity. There is nothing wrong at all in ethnic consciousness, that is where the greatest and the deepest culture resides, but to create a nation you have to meet on a level in which the ethnic factor plays no role, and that is all I think a nation in formation moves towards. Unfortunately, time and time again, these very shrewd and totally unscrupulous politicians drag in religious and ethnic factors and try to create what you might call a primitive sense of solidarity to persuade their own group that another group is the enemy. They are exploiting the corrupt aspects of community. But no I do not think that Nigeria can be described as deeply divided along religious lines. Of course there is terror, acts of dissent, and atrocities. But I would say that the economic factors are the greatest dividers in Nigeria at the moment. And the determination of the few to hold permanent control over the vast resources of the nation in the most unscrupulous manner--by dragging the ethnic and religious factor into it--is the most critical issue.

As Umaru Yar'Adu, the President of Nigeria, has left the country, it is clear that Nigeria needs an active president. What type of leader is necessary for the future of Nigeria? What type of leader does Africa need moving forward?

Well, one type of leader that Nigeria does not need is a phantom president. And that is what we have right now. But that

situation is being remedied. Currently, Yar'Adu is a ghost in the background, and around him of course is a cabal, which is very fearful that if they have no center around which to manipulate, they are desperate enough to keep up this completely gouhlish charade about a president who is obviously very ill now. I've met him before and am convinced that he does not know of his surroundings, he doesn't know where he is. He did not strike me as the type of person who would want to cling to power, especially in a way which is opposed to the constitution. But he is surrounded by some lewd and very dangerous – we call them the cabal – and this must come to an end.



Nigerian President Umaru Yar-Adua on January 29, 2010 after winning a victory in the high court, stating that he did not have to relinquish power as a result of an illness. Soyinka argues that Nigeria needs a president that can run the country as a business and not as an ideologue. (Flickr/Pan African Newswire)

What sort of leader does Africa need? Africa doesn't need a leader. Africa needs leaders in a decentralized continent. I don't believe there should be an African leader. But all countries, especially in democratic situations, do involve a trial by error process. Democracy itself, I regret to say, is a trial by error process. Americans tried George Bush for the first four years, and to my horror and astonishment, they decided to try it again for another four years. Now, I just could not believe it, but it happened. Berlusconi in Italy is seen as a clown and is under investigation for illegal activities. Sarkozy is a slight cut above, not much, and Europe and America have their own share of disastrous leaders.

Each country is looking for the ideal leader, and rarely if ever do they find it. At least, one thing that is desperately needed in Nigeria, and which we have not found, is a leader who will treat the nation like a piece of real estate. In other words, a competent manager who will treat it almost as a company and has the attitude in mind that all Nigerians are shareholders and he must produce dividends at the end of every year. I think that is what Nigeria needs right now. Forget the ideology for one. We can come back to that later. Right now it is a question of managing that piece of real estate and making it perform. We can approach it like a company, but a producing company, not just a company that deals in retro wealth, but real wealth, seizing the oil resources and then making it yield profit and then plowing the profit back into making the real estate function. Yes, I would settle for somebody like that. Not any kind of lofty high-minded leader. Right now just let us say for about eight years, running that nation like a business would be the way, and then we can talk about elections after that.

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Telephone: (203) 432-7336
Email: bioethics.center@yale.edu

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A CONTINENT DIVIDED?